

1 that when you require each person to come up with some
2 kind of identification, that's going to require a lot
3 more time.

4 We're not convinced that there is a problem.
5 You know, when I looked at the -- the Bowl analysis with
6 this legislation, the Bowl analysis said that the
7 problem that we're trying to correct is that with voter
8 registration, there's no requirement for identification,
9 so, this lends itself to a potential problem with actual
10 voting.

11 So, I said, well, if the problem is with
12 voter registration, why not look to fix the problem at
13 that level, like Dr. Allen mentioned earlier with voter
14 registration because once you require this kind of voter
15 identification, you're going to have to have it every
16 single election.

17 And I can just wonder how negative of a --
18 this will impact the African American vote with election
19 officials who don't have their best interest at heart
20 being given the power and authority to make the
21 judgments about whether or not they are entitled to
22 vote, whether it's a difference in just one letter in
23 the name, whether someone is not being able to read your
24 handwriting.

25 And I know one of the things I heard earlier



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1 was about well -- and I guess with Florida, if you check
2 the handwriting and if the handwriting turns out to be
3 okay, then you allow the individual to vote. Well, you
4 know, we don't have individuals who are trained as
5 handwriting -- forensic handwriting analysts. So, we
6 have lay people that are going to make decisions about
7 whether the handwriting is correct. I think that's ripe
8 with potential problems.

9 You know, it reminds me kind of in Venezuela
10 when I went down as an official election observer in
11 those elections, they had these kinds of processes, and
12 I was thinking we shouldn't be moving where they are,
13 they should be moving towards where we are but -- and it
14 was a very intimidating experience to see the kinds of
15 things that they actually did there in their elections.

16 But when we -- when I sat down and I went
17 through the bill to look at what was in the bill that
18 would be problematic, and there's a great deal in the
19 bill that would be problematic.

20 Number one, the wording of the affidavit
21 would be intimidating to many people because you're
22 making some very strong statements because sometimes
23 people are wrongfully purged. Sometimes maybe there's a
24 mistake but the way the affidavit has to be written, you
25 have to state that you are registered to vote there and



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1 you authorize a vote in that election, and in the hands
2 of the wrong kind of district attorney or what have you,
3 that could be a serious problem.

4 Secondly, I think that when we look at the
5 types of identification that are required, especially
6 the alternative identification, really both kinds, I
7 think we find that in terms of the photo IDs that are
8 allowed that will allow someone to vote, those seem to
9 be biased towards members who are conservative voters.

10 The types of identification that many of the
11 people that we're seeking to represent and to say that
12 they should be able to vote and not have additional
13 impediments placed between them and voting, those types
14 of identification are not there. So, it seems as though
15 there is a design in how this is actually written for
16 that to be problematic.

17 I think, too, in looking at the bill, the
18 bill could have -- well, I think -- my time is about to
19 expire here but let me say that very clearly I don't
20 think there's any doubt that this bill will undermine
21 the African American voter.

22 I think if this bill is adopted, I don't
23 know what the future would hold except I can say I feel
24 very clearly that the NAACP would file an objection with
25 the Department of Justice, and I can't say that things



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1 would be different at this Department of Justice but I
2 do know that -- that when the judger law was pre
3 cleared, it went through the Bush Department of Justice
4 and, you know, sadly, all of the Department of Justices
5 that have happened before, whether it was under Reagan,
6 Bush or Clinton or what have you, there seemed to be
7 certain things that were within a safe area that people
8 didn't seem to tread upon, that seemed to say this is
9 what American -- what we expect but I think in the Bush
10 Justice Department, that completely changed and even
11 issues such as the Texas Congressional Restricting Plan
12 that was pre cleared and there really wasn't a basis for
13 that.

14 So, I'm hoping now that the Justice
15 Department will give a lot more objective and thorough
16 look at it. I realize that if this passes and goes up
17 to the Supreme Court, it will probably be a 5/4 vote. I
18 think we probably all understand that but I think that
19 this is clearly distinguishable from the Indiana
20 situation. Texas is a Section 5 state.

21 Thank you.

22 CHAIRMAN SMITH: All right. You know, you
23 mentioned and so many witnesses have mentioned this
24 question about ballot names being misspelled and so
25 forth, so, after he finishes, I'd like to have Ms.



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1 McGeehan come up and I want to ask her some questions
2 about that.

3 I believe Representative Hochberg maybe even
4 filed a bill that you testified on earlier this session,
5 so, if you can recall that testimony, I want to ask
6 questions about that.

7 Okay. Now, I'm starting the clock on your
8 question period, which we'll be glad to extend as
9 necessary.

10 MR. BLEDSOE: Thank you, sir.

11 CHAIRMAN SMITH: The -- when you talk about
12 false information being put in African Americans'
13 mailboxes about when to vote or where to vote or, you
14 know, a few numbers of voting apparatus or whatever it
15 was that caused longer lines in certain voting places
16 than other voting places, I mean, it surely --
17 hopefully -- tell me I'm not wrong -- I mean, there's
18 some -- if that's happening, to the extent that there
19 are longer lines where you vote than where -- where
20 Anglos vote in my area, is there not recourse available
21 to you to the extent that this is happening on a regular
22 basis to do something about it?

23 MR. BLEDSOE: The -- there -- there is not
24 adequate resource -- recourse in terms of how things
25 must take place.



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1 For example, if -- if it involves a specific
2 election, you are going to have to show, if the election
3 has already been completed, that the election outcome
4 would have been different if things had been provided
5 for that particular election precinct.

6 I think that in terms of -- if -- if it is
7 ongoing, it's going to require money, it's going to
8 require someone to be able to get a lawyer and go and
9 file a lawsuit and get a judge to extend the time that
10 the polling place is going to be open, requiring an
11 election official to send more ballots over, to give
12 more polling sites.

13 So, that's something that not everyone has
14 the ability to do. That's something that's very
15 difficult and complicated. You've got to have a good
16 judge. You've got to have resources. I think those
17 things clearly would violate the law but, you know, one
18 of the things that you have to prove and many of the
19 laws that are on the books is that these were
20 intentionally decisions by officials and not just a --
21 something that might have been a mistake, and that is a
22 problem as well.

23 CHAIRMAN SMITH: Are you or are you not --
24 I'm not clear really on this. Are you saying that you
25 believe that on average the lines in voting places are



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1 longer in primarily African American voting districts
2 than they are in primarily Anglo voting districts and on
3 average that is generally true and there hasn't been
4 anything that you all have been able to do about it?
5 Are you saying that or not?

6 MR. BLEDSOE: I'm not saying on average but
7 I'm saying that the polling places -- and there have
8 been quite a few where there have been identified
9 problems with -- let's just say long lines or problems
10 with -- with not having enough ballots or enough
11 facilities, those are almost all in minority communities
12 but I haven't done some kind of, you know, analysis of
13 the state to say on the average because that's probably
14 only, you know, 10 percent of the precincts but that's
15 enough of a number to really cause us a great concern.

16 CHAIRMAN SMITH: And my question is whether
17 people in good faith are attempting to provide adequate
18 equipment and that there are a percentage of precincts
19 where for whatever reason there's too few polls and,
20 therefore, longer lines but that that occurs in the same
21 proportion in Anglo districts for the very same reason
22 or -- or are you alleging that on average it happens to
23 African American communities more often than it does in
24 other communities?

25 MR. BLEDSOE: What I'm saying is I think



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1 that it does happen in African American communities much
2 more often than it does in other communities o the
3 extent it does happen in other communities.

4 So, I think there is some design behind it,
5 some intent because, you know, they usually occur when
6 there's a big election and there's a desire to suppress
7 the minority vote, and I wish that were not true but I
8 think it's pretty clear that that's where it happens,
9 when it happens and that's why it happens.

10 CHAIRMAN SMITH: Okay. Representative Dr.
11 Allen.

12 REPRESENTATIVE DR. ALLEN: Thank you, Mr.
13 Bledsoe. Before I ask you a couple of questions here, I
14 just wanted to say yes, it happens in our communities,
15 and I made myself a committee of one. I went to the
16 polling place every day. The first day there were a
17 very insufficient number of voting machines there and at
18 least half of those were not functioning.

19 And so, what I did, maybe something you can
20 do, is I called the election office and I called the TV
21 channel, and it wasn't long before the TV channels were
22 there and it wasn't long before the machines were fixed
23 and they had more machines out there. So, we'll just
24 have to watch it ourselves.

25 MR. BLEDSOE: But, of course, not everyone,



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1 Dr. Allen, has a state representative that has a PhD
2 that lives in their community who is going to be able to
3 do that and has a responsive media.

4 REPRESENTATIVE DR. ALLEN: Okay. You call
5 me, I'll come to yours.

6 UNIDENTIFIED SPEAKER: Nor should they have
7 to.

8 REPRESENTATIVE DR. ALLEN: That's right.

9 Now, you've heard a lot today about voting,
10 and I know you would know this but I really wanted to
11 put this on the table about the Voting Rights Act.
12 You've heard it said that we no longer need that. After
13 hearing all of the information you heard today, the
14 witnesses, what do you say to that? What's your
15 position on that, that we no longer need the Voting
16 Rights Act?

17 MR. BLEDSOE: Well, that's one thing, Dr.
18 Allen, we did when we conducted all those hearings
19 around the state because we knew the Voting Rights Act
20 was going to be up for reauthorization. So, we did
21 extensive hearings at court reporters and had
22 transcripts and we ended up doing executive summaries
23 and all that and we went to DC and we went to visit
24 Senator Hutchison and Senator Cornyn to try to make sure
25 they voted the right way on those issues.



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1 And at one point, Senator Cornyn was
2 actually opposed to the reauthorization of the act
3 and -- and I won't say that it was based on our meeting
4 but after we had met with him, we took about 30 or 40
5 people with us and presented him with the information.
6 He did change his vote and the act passed the next day.

7 So, we were very glad to see that but we
8 did -- from what I've seen from personal experience and
9 from what we've garnered as an organization through our
10 many pinnacles added to the community, we have some
11 serious problems in Texas and people haven't really just
12 acquiesced in the idea that minorities should be able to
13 vote.

14 And we keep saying if you give minorities a
15 chance, you go out and give them something to consider,
16 people will be very fair in how they give out their vote
17 but when you do things that undermine the minority
18 communities' interest, you will antagonize the minority
19 community and -- but we continue to see things that
20 happen like that because I think this bill is widely
21 seen in that same way.

22 If you listen to an African American talk
23 show tomorrow and the bill is discussed, you're going to
24 hear that's the general sentiment in the community.

25 REPRESENTATIVE DR. ALLEN: Absolutely.



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1 Now, you told some very pungent stories
2 about voter suppression and -- but I know you can go a
3 little further back. I really want everyone in this
4 room to know the kinds of things that minorities have
5 gone through just to be able to vote.

6 We didn't even talk about women not being
7 able to vote. Of course, when women got their right to
8 vote, you remember black women were not allowed to vote.

9 And so, I know that all of you heard the
10 famous statement, "Ain't I a woman, too," came from the
11 rights for minority women to vote.

12 The -- when (Inaudible) who walked and
13 protested with the women who could not vote and when
14 they decided that they could go into the continental
15 congress, they said white women can come in but the
16 black women could not come in.

17 So, that's when you hear that famous
18 statement, "Well, ain't I a woman, too? I born nine
19 children," et cetera, et cetera. You know the story and
20 that's the history of that.

21 So, I wanted you to talk about voter
22 suppression. How many beans in a jar? Can you come up
23 with others? I can. I wanted to give you that
24 opportunity.

25 MR. BLEDSOE: Oh, there are a number of



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1 examples of voter suppression that I can give you that
2 have occurred even -- even recently that really are
3 problematic and, you know, the -- the voter suppression
4 that we've seen involves again -- you heard Judge
5 Charleston talk about the Waller County situation.

6 REPRESENTATIVE DR. ALLEN: Yes.

7 MR. BLEDSOE: And that's a perfect example
8 because in Waller County, you have the missing
9 registration applications and also in Waller County,
10 besides the missing registration applications, that
11 General Abbott did, ultimately, it was after the
12 election and it didn't affect the outcome of the
13 election but I think they ultimately were processed and
14 I think it was through the AG's office that they were
15 processed and that's where my comment came from but that
16 was in the context of there being -- there were ballot
17 boxes from Prairie View that were taken in plain view,
18 and some of the students I met with that actually filmed
19 they being pain in plain view illegally by officials
20 that were not official county officials in the middle of
21 the day and no consequence occurring with that, the
22 continued -- you know, the indictment of African
23 American elected accounted officials there, the Grand
24 Jury investigations of other elected officials there,
25 the idea that you cannot vote, the whole idea with their



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1 (inaudible) situation in 1991 wasn't sufficient where
2 this had to -- had to occur.

3 And the NAACP was one of the plaintiffs in
4 the lawsuit to address that situation in Prairie View,
5 and that's -- so, that was clearly done by design.

6 And with -- Chairman Smith asked about it
7 earlier and we talked a little bit more about that
8 situation in Tarrant County because what happened there
9 was there was an African American newspaper that
10 apparently worked something out with a campaign, and the
11 campaign featured this idea about what's going to happen
12 to you if you show up and vote and if you're -- and it
13 gave the misinformation about if you're a felon and it
14 said that if you have an outstanding warrant, you're
15 going to be arrested, and they actually positioned off
16 duty police officers.

17 They mentioned this in the newspaper article
18 that was placed in the mailboxes, and I think it was
19 probably illegal but they actually then went out and
20 hired off duty police in uniform and had them positioned
21 around minority polling places. And so, that was very
22 intimidating when that occurred.

23 REPRESENTATIVE DR. ALLEN: Correct.

24 MR. BLEDSOE: And --

25 UNIDENTIFIED SPEAKER: Has that conducted



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1 been prosecuted?

2 MR. BLEDSOE: Was that actually prosecuted?

3 UNIDENTIFIED SPEAKER: Yes.

4 MR. BLEDSOE: Not to my knowledge, I don't
5 believe it was.

6 UNIDENTIFIED SPEAKER: Do you know the
7 extent to which any of these activities have been
8 prosecuted in the state?

9 MR. BLEDSOE: Well, in the Wharton County
10 situation, that one was kind of ironic because the
11 authorities actually turned it on the African American
12 sheriff's candidate and were actually looking at him
13 and, ultimately, he was not prosecuted but his name was
14 C. G. McElwain, and they actually started looking at him
15 for burning down his own supporter's home and then
16 acting as if he had done a publicity stunt.

17 Well, we had to -- we had to send down a
18 team of individuals on election day to be there and be
19 available. We ended up running out of ballots in the
20 black community that day in Wharton County.

21 UNIDENTIFIED SPEAKER: And if someone were
22 to say to you that those activities that you're
23 describing that are intended to intimidate, et cetera,
24 voters from voting do not occur because they have not
25 been prosecuted, you wouldn't be impressed with that



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1 argument, would you?

2 MR. BLEDSOE: Well, again, I understand the
3 sentiment and the discussion, and these things were --
4 were not prosecuted. You know, I think that we're aware
5 of them because we're personally involved in them.

6 You know, I had people that were extensions
7 of the organization, for example, that were there in
8 Wharton County that were there at the African American
9 polling sites that were reporting to me on an hourly
10 basis while I was at our election central, and so -- and
11 I know them to be credible people, so, I feel pretty
12 solid about the information that came there.

13 And I ended up meeting and visiting
14 Mr. McElwain later, and we assisted him later when the
15 authorities tried to flip the investigation to go after
16 him instead of the people who had actually done this to
17 his supporters.

18 UNIDENTIFIED SPEAKER: So, your --

19 MR. BLEDSOE: So, I actually kind of was a
20 witness in that situation.

21 UNIDENTIFIED SPEAKER: And your conviction
22 about which this crime that is not prosecuted occurred
23 is based on anecdotal information that you received from
24 people that you trust?

25 MR. BLEDSOE: To the extent -- and, again,



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1 some of the information is from me from direct
2 information but -- but yes, I mean, it's not the same as
3 third party information because when you know the person
4 or when you are the one that assigns someone -- it's
5 just like you, if you've got a law office or something
6 and you've got a private investigator, you send the
7 private investigator out to collect facts and you know
8 that person to be a person of integrity, you kind of
9 trust those facts.

10 So, when I send a team of people out, it's
11 usually people that have character and integrity, and
12 when we get the information back, I feel that it's
13 trustworthy information.

14 UNIDENTIFIED SPEAKER: Thank you.

15 REPRESENTATIVE DR. ALLEN: I want to finish
16 my line of questions, please. Thank you for that
17 information.

18 And I want to bring -- bring you up to date
19 to 2008 to the last election but prior to that, before I
20 go with that one, I don't know that you remember that
21 for -- to vote in the State of Texas, at one time you
22 had to be a landowner. Do you know that one?

23 MR. BLEDSOE: That's correct.

24 REPRESENTATIVE DR. ALLEN: Voting was for
25 white males only, that you had to be literate and if you



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1 didn't know how to read -- you were given a literacy
2 test, so, if you could not answer the questions on the
3 test, then you could not vote.

4 MR. BLEDSOE: That's correct.

5 REPRESENTATIVE DR. ALLEN: And then we went
6 through the poll tax phase of it. I think that's where
7 I came in. I remember poll tax and so -- but we've been
8 through all of these suppressions before, and I think --
9 when I see this, I see it as another form of
10 suppression.

11 But you've had heard a lot today about
12 Indiana and Georgia and when the voter ID came in that
13 there was an increase in the number of voters 2 percent,
14 which is not enormous but there was -- all the way up to
15 6 percent I heard tonight.

16 2008, the Obama election year, do you think
17 that voter increase was due to voter ID being
18 implemented or were there other factors involved in --
19 in the voter increasing in minority neighborhoods this
20 time?

21 MR. BLEDSOE: When it comes to analyzing
22 election returns, it's clear you have to throw out 2008
23 because 2008 is truly an aberration for a number of
24 reasons.

25 When you have the first African American



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1 running for president, people who might be otherwise
2 intimidated actually would take that risk and go to the
3 polls. I mean, you had people that were a hundred years
4 old that were going to the polls and some of them went
5 on their own.

6 So, I understood that dynamic, and in
7 Georgia, for example, Georgia had the most incredible
8 get out the vote effort that took place there because
9 there was money, there was activity relating to that
10 election that you had not seen because Georgia,
11 ironically, was one of those covered Section 5
12 jurisdictions that were in play.

13 So, both -- both of the candidates were
14 pushing for that, and so, that was not driven by local
15 elections. That was actually driven by the national
16 election and the enormous amount of money and activity
17 that went into that campaign in Georgia.

18 So, you -- when you look at Indiana,
19 Georgia, any of those, you have to throw out 2008 and
20 you have to look at other years because 2008 is an
21 absolute aberration and, you know, you won't have an
22 Obama on the ballot in 2010.

23 And so, you know, that will be a better
24 barometer or idea of comparing maybe 2010 to 2006 but
25 2008 is -- is truly an anomaly and won't be repeated



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1 until 2012.

2 REPRESENTATIVE DR. ALLEN: Thank you.

3 CHAIRMAN SMITH: Members?

4 Yes, Representative Brown.

5 REPRESENTATIVE BROWN: The description of
6 the event surrounding that election where you said that
7 the off duty police officers were hired to come, how
8 long ago was that?

9 MR. BLEDSOE: That was somewhere around '01,
10 '02, '03.

11 REPRESENTATIVE BROWN: Thank you.

12 MR. BLEDSOE: I'd have to go back and look
13 at the report to see the exact year, somewhere in that
14 year.

15 REPRESENTATIVE BROWN: Within the last ten
16 years?

17 MR. BLEDSOE: All of them were within the
18 last ten years because we hadn't started having the
19 hearings until after 2000.

20 REPRESENTATIVE BROWN: Thank you.

21 CHAIRMAN SMITH: Representative Anchia.

22 REPRESENTATIVE ANCHIA: Thank you.

23 Mr. Bledsoe, thanks for being here.

24 I want to just go over some studies related
25 to the disparate application of photo ID requirements in



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1 photo ID states.

2 You may or may not be familiar with the
3 studies but I'm going to read the studies to you, and I
4 would ask you to just confirm or deny whether you find
5 it surprising, the conclusion of the study.

6 It really relates to -- these are academic
7 studies related to street level enforcement of photo ID
8 and their potential for discrimination.

9 The first study is a Caltex, MIT and Harvard
10 study from 2007 to 2008, 2007 election, 2008 Super
11 Tuesday primary concluded that African American voters
12 were 14 percent more likely to be asked for photo ID
13 than whites, and that was a consistent finding in all
14 states regardless of the photo ID requirements, and
15 Hispanics were 18 percent more likely than whites to be
16 asked for photo IDs. Does that surprise you?

17 MR. BLEDSOE: No, it doesn't. And I might
18 even say we did a racial profiling study in the State of
19 Texas of DPS statistics, and we found out that African
20 American and Latinos were requested to give -- to allow
21 their vehicles to be searched much more likely -- much
22 more likely than Anglos. I think it was like 2 to 1 or
23 3 to 1 was the actual percentage there. And so, I think
24 that that's another example.

25 And that's when you -- you didn't -- the



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1 suspicious circumstances and all seemed to be controlled
2 and the same but the police officers in their subjective
3 nature were asking the minorities to search their
4 vehicles, and they were much less likely to find
5 contraband in the vehicles of the minorities, yet they
6 were much more likely to ask them to be able to search
7 their vehicles.

8 REPRESENTATIVE ANCHIA: So, the conclusions
9 of a Harvard study on the 2006 and 2008 elections might
10 not surprise you where they concluded that in the 2006
11 general election 47 percent of white voters reported
12 being asked to show photo ID at the polls compared with
13 54 percent of Hispanics and 55 percent of African
14 Americans, and in the 2008 Super Tuesday primary states,
15 53 percent of whites were asked to show photo ID
16 compared to 58 percent of Hispanics and a staggering 73
17 percent of African Americans, those findings wouldn't
18 surprise you then?

19 MR. BLEDSOE: No, they wouldn't. And I
20 think that 73 percent suggests that they were clearly
21 concerned that those were voting for a certain
22 candidate.

23 REPRESENTATIVE ANCHIA: And according to the
24 nation's largest nonpartisan exit poll of Asian
25 Americans, nearly 70 percent of Asian voters were asked



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1 for ID at the polls in states where no photo ID was
2 required, and that was also a Caltex study, so, that
3 wouldn't surprise you either?

4 MR. BLEDSOE: No, it wouldn't.

5 REPRESENTATIVE ANCHIA: Okay. Thank you.

6 CHAIRMAN SMITH: Yes, Representative Veasey.

7 REPRESENTATIVE VEASEY: Mr. Bledsoe, I
8 wanted to ask you specifically about your opinion on
9 voter ID laws that are being implemented in specific
10 states, and I know that you do a good job of talking to
11 your colleague at the national office and at the other
12 NAACP branches across the country but one of the things
13 that interests me is that it seems like where the voter
14 ID law is being implemented or attempted to be
15 implemented, it seems as if there are significant
16 minority populations in those states like I don't see
17 anybody, you know, trying --

18 MR. BLEDSOE: That's true.

19 REPRESENTATIVE VEASEY: -- to implement
20 voter ID laws in Idaho or some place like that. It
21 seems where it's being implemented that it's in heavily
22 minority states. Has that been your experience?

23 MR. BLEDSOE: That's correct. And we're
24 completely opposed to those. We have opposed those in
25 whatever states they have been proposed.



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1 REPRESENTATIVE VEASEY: Why do you think
2 that that -- why do you think the voter ID laws are in
3 those particular states with significant minority
4 populations?

5 MR. BLEDSOE: Well, it's clear what the
6 design of the bill will lead to and, that is, a lower
7 minority vote whether it's because people have not as
8 much time and they're trying to be in line, they have to
9 go back to work and they have to leave but the longer
10 you keep the process going, the more you're going to
11 discourage people.

12 So, we keep looking at how many people went
13 through the process and ultimately were -- were told
14 their vote wouldn't count but I think there's a huge
15 number of individuals who are going to be dissuaded and
16 discouraged because even the issues relating to the
17 affidavit that you have to fill out and people worrying
18 if they're going to be prosecuted for what they put in
19 the affidavit and even the situation relating to getting
20 the free ID card, you know, if you use it once --

21 I think I heard Dr. Allen have an engagement
22 with another member of the committee earlier. I read
23 the bill to say if you actually use it for any other
24 purpose, you've violated the bill and, theoretically,
25 this might mean you're tampering with a government



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1 record or some kind of falsification. So, it would be
2 very intimidating.

3 So, I think that clearly these laws are put
4 there because when you say you have to have an affidavit
5 that you have to execute or you have to be in line
6 longer, this is just going to discourage people who have
7 less flexible time, who are more intimidated by this
8 world that we live in, that's going to discourage them
9 from participating.

10 And so, I think it's going to have a clear
11 result and it's going to be much greater than the
12 number -- the numbers we've heard have just been really
13 small compared to what I think the actual reality would
14 be.

15 REPRESENTATIVE VEASEY: And one of the
16 things, speaking of ID -- and you're familiar with the
17 history of poll taxes and everything that sort of went
18 along with poll taxes until, you know, they weren't
19 being used any more, and I wanted to specifically ask
20 you about the free ID because the way I read the free
21 ID, it says that you can be given a free ID if you're
22 going to use it for voting but, obviously, you would
23 need to present certain documents to get that free ID.

24 If -- if poor individuals, people that don't
25 have money to go and get this ID would have to go and



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1 get the supporting documents that would cost money in
2 order to get this free ID, is that not similar to a
3 modern day poll tax?

4 MR. BLEDSOE: There's no question a lot of
5 cost factors that would be involved. For example, if
6 you go to Presidio County, Presidio County, you have to
7 go to the county seat, and the cities and towns are so
8 far away from the county seat, many of them, where a
9 number of the voters live, and they may not have access
10 to the same transportation.

11 That's another study that we did, the NAACP,
12 a profiling study, we looked at the ownership of
13 automobiles and things of that nature, and we found that
14 minorities are much less likely to have access to
15 automobiles.

16 So, I think that you -- what you'll find is
17 that all those things would be additional costs. Let's
18 say, for example, you have to defend your ballot. Let's
19 say you vote and you have a provisional ballot and you
20 have to go at some point and raise an issue to prove
21 that you were the same person, isn't that going to be
22 some additional cost on that person?

23 What's that going to be for a poor person
24 who has to depend on public transportation? What if you
25 have some kind of free bus service or something that you



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1 normally use and they don't work late in the evenings?
2 You know, they shut down at a certain point in time.
3 So, if you have to go through some process where there's
4 a canvassing session or whatever that takes an extended
5 period of time and we know -- I think we can look at
6 what just happened in the Harris County elections that
7 just took place, and when they went through the
8 canvassing process and all that, how you saw where there
9 were minority candidates on the same plate of other
10 candidates that they did not prevail, and so, those
11 things are potentially ripe with problems.

12 REPRESENTATIVE VEASEY: I wanted -- and I'm
13 done asking Mr. Bledsoe questions but since the topic
14 came up about certain suppression tactics at polling
15 places, in 2002, not 1960 or '50 something but in 2002
16 in Fort Worth, Texas, that was the year Ron Kirk was
17 running for Senate, I was not a state representative at
18 the time but the particular campaign office that I was
19 running, I got a call from a voter and the voter said
20 there is a -- I was on a project and if you're familiar
21 with downtown Fort Worth then you're familiar with the
22 Butler housing project.

23 I got a call from a voter saying: I was
24 going to go vote, it was election day, and there was a
25 roadblock literally set up over the main road leading



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1 out of the project on election day.

2 And so, you know, I mean, a lot of people
3 think that a lot of the things that we're talking about,
4 particularly when we start delving back into history and
5 the history of voter suppression tactics that that
6 doesn't go on any more but as recently as 2002 in Fort
7 Worth -- and, you know, of course, the police department
8 today would say, oh, it was just accident and it wasn't
9 any big deal, as soon as we figured out it was election
10 day, we pulled up the roadblock but if you live in that
11 community and you've heard the stories and you've heard
12 the different things that your relatives and friends and
13 families had to go through and -- and -- or maybe even
14 you had to live through that your yourself, then
15 that's -- that can be painful and that can be a serious
16 experience as far as suppression is concerned.

17 MR. BLEDSOE: I agree, and it does occur in
18 the current day. This is not something that's remote
19 and distance in time, and that's what sad about it.

20 I would think when we look at the bill and
21 the proposal, I would feel better about the intent of a
22 proposal if you were trying to fix the whole problem but
23 we have a lot of people out there that are crying out
24 for justice and fairness.

25 These intimidation tactics continue to occur



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1 and there's no outcry for them. There's no real effort
2 or synergy that's put together some initiative to try to
3 get some relief from them, and whenever we get relief,
4 it has to come from the federal government, and that's
5 better sometimes than other times, and that's what sad
6 about it but if there was a whole -- let's just say some
7 coordinated legislation that sought to address one issue
8 with the same time trying to address other issues as
9 well because a lot of things that occurred were actually
10 crimes and -- but when crimes are committed by persons
11 in official authority or what have you, they seem to not
12 make a difference.

13 CHAIRMAN SMITH: Any other questions?

14 UNIDENTIFIED SPEAKER: Mr. Chairman, can I
15 ask a question?

16 CHAIRMAN SMITH: Certainly.

17 UNIDENTIFIED SPEAKER: Thank you.

18 To elaborate on the questions that
19 Representative Veasey asked you, Mr. Bledsoe, you
20 asked -- you were mentioning earlier about leafletting
21 programs for suppression of voter participation, and
22 Mr. Veasey reached back to ancient history, 2002, but
23 you are aware that as recently as a year and a half ago,
24 there was a voter suppression program in inner city Fort
25 Worth involving City Council candidates. One was an



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1 Anglo candidate, one was Hispanic.

2 And there was a broad leafletting in a
3 (Inaudible) neighborhood giving false information about
4 the election day to the Hispanic voters in inner city
5 Fort Worth. So, it's -- I guess the point is it's very
6 recent and it's very current; is that correct?

7 MR. BLEDSOE: That's correct. That's
8 correct. They continue to this day.

9 UNIDENTIFIED SPEAKER: And maybe you care
10 about voter suppression and maybe you don't, that's
11 correct, some people do and some people don't?

12 MR. BLEDSOE: That's -- that's true. I
13 think in some people, it's a way of doing business, and
14 that's what's sad about it because, obviously, the ones
15 who are most likely to being victimized are black or
16 brown.

17 UNIDENTIFIED SPEAKER: And, in fact, you may
18 have seen the news media coverage on this issue where
19 the chairman talks about the inherent dynamic conflict
20 between voter suppression and voter encouragement.
21 You're familiar with that ongoing conflict.

22 So, really, the issue is where do you come
23 down on the side of the issue? Are you in favor of
24 voter participation or are you in favor of voter
25 suppression?



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1 MR. BLEDSOE: Well, and I would agree simply
2 because I haven't seen the -- you know, I think it takes
3 a lot of bravado for someone to go and vote with someone
4 else's voter ID card. I just don't think that's
5 happening very often. To the extent that it is
6 happening --

7 UNIDENTIFIED SPEAKER: There's almost no
8 evidence of it ever happening in Texas.

9 MR. BLEDSOE: I think there's fail-safes
10 that are in place to address that type of situation.
11 So, I don't think that it is a problem.

12 I think voter intimidation is a much larger
13 problem than voter fraud in the way that part has
14 been -- in terms of the voters -- voter identification
15 requirement that's on the table.

16 UNIDENTIFIED SPEAKER: Any election day, if
17 you chose to spend the day at the Democratic party
18 headquarters, as I have done on several occasions, you
19 could handle a litany of phone calls from people talking
20 about how they have been turned away from the polls for
21 one reason or another, all of which are not valid.

22 MR. BLEDSOE: Yeah, we've had a number of
23 instances where people were turned away when the reasons
24 were not valid. I don't know that I could say that all
25 the time they weren't valid but usually they were not



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1 valid reasons.

2 And they were usually people who were
3 minorities, and this is all about counting votes. And I
4 know that, you know, one of the things we had like in
5 Bell County this last time was a situation where someone
6 clearly was a voter and they were not allowed to vote.

7 And some of our branch members were with
8 this individual, and they showed all kinds of
9 identification and everything, and the person still
10 wasn't allowed to vote.

11 At the same time, there were a number of
12 African American members of the branch who were in the
13 military who had been deployed to Iraq, and they were
14 sent back home, and they were wrongfully purged from the
15 voting -- from the rolls, and so, they were all African
16 Americans and this was happening.

17 UNIDENTIFIED SPEAKER: So, just so you're
18 clear, all the questions I was asking about are relevant
19 to Tarrant County, the home county of the chair bill
20 elections committee, Chairman Smith.

21 MR. BLEDSOE: These are all -- I mean,
22 Tarrant County is the country where they were doing the
23 illegal with the mailboxes and the newspapers and all
24 that. That was all in Tarrant County.

25 UNIDENTIFIED SPEAKER: Thank you.



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1 CHAIRMAN SMITH: Any other questions,
2 members?

3 Representative Helfin.

4 REPRESENTATIVE HELFIN: Mr. Bledsoe, thank
5 you for being here today.

6 We've heard testimony about voter misconduct
7 throughout the evening -- day and evening. We also have
8 an issue of basically -- and I hate to say this because
9 I know 99.9 percent of them are very, very good people,
10 are just trying to do a very good job. We have some
11 poll worker misconduct as well.

12 Would you -- do you see that happening, that
13 some of the election judges are looking harder at one
14 set of records than they are the next, so to speak?

15 MR. BLEDSOE: There's no question that's one
16 of the biggest problems that we have seen is the poll
17 worker misconduct, and when you give poll workers more
18 ammunition to tell someone they cannot vote, that's
19 going to create a real problem.

20 And the real risk, I think, of this bill and
21 the way that it's designed and the power that it gives
22 to poll workers, it actually makes them become more of
23 an arm of the campaign, okay, because I think when you
24 empower them with this, we look at the situation that
25 occurred in Florida -- excuse me -- in Ohio in 2004 and



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1 the idea with the -- with the persons that could be at
2 the polling sites that could actually challenge
3 elections.

4 When you empower people to -- to tell people
5 no and to hold up lines and these people are selected
6 that -- in a process that doesn't indicate that they are
7 really reflective of the views of the people in that
8 community and they're running a polling site, that's
9 going to present a real impediment to them actually
10 obtaining justice.

11 So, I think that -- the idea of how this
12 empowers individuals who -- who are election officials
13 is just -- is just unreasonable because it gives them
14 too much power, especially in light of what we've seen
15 and the actual interplay that we see that's very much
16 conflict oriented between African Americans and
17 individuals that run polling sites in many areas around
18 the state.

19 We've seen this whether it's Texarkana, Fort
20 Bend County, Harris County, you know, Wharton. We've
21 seen this in innumerable counties around the state, and
22 it's not limited geographically.

23 REPRESENTATIVE HELFIN: Now, this -- even in
24 this very committee, we heard a bill earlier this year,
25 which I think is good, that in the event someone ends up



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1 filling out their voter registration card makes
2 fraudulent statements, that it be bumped up from a
3 misdemeanor to a felony grade offense, and then also we
4 heard from Florida on mail in ballots, inappropriate
5 action on the mail in ballot was also moved up to a
6 felony grade offense.

7 And I say this very, very cautiously because
8 I know it is so difficult to find people to work these
9 elections and, as I said, I know 99.9 percent of them
10 are good people, how do we police that and how do we
11 punish that?

12 Because that's a crime. That's suppressing
13 our right to vote. I don't care who it is, whatever
14 color, whatever, but what -- what's your view on that?

15 MR. BLEDSOE: Well, I think that's the only
16 way to really discourage it but I think that when
17 usually individuals are doing this, they are acting on
18 behalf of a higher authority, just to be very honest
19 about it.

20 When you're acting on behalf of a higher
21 authority, usually there's some insulation that's
22 provided to you.

23 I think that -- and so, therefore, what you
24 really have to do is somehow be able to make selections
25 of people who run polling places that go outside of the



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1 political domain and take some of the politics out.

2 It's kind of like some of the ideas of these
3 nonpartisan redistricting commissions that are being set
4 up like they just adopted out in California, I mean, you
5 need to have some kind of process like that where
6 individuals who don't have a stake in the game, so to
7 speak, can run the polling places and then have all the
8 proper training because when you give subjectivity to
9 individuals that have a stake in the outcome, that are
10 associated with people that are running, I think you run
11 the real risk of having problems arise in those areas.

12 So, I think that's -- that's one of the
13 things that could be done there is take the politics out
14 by getting a different group of people to run the
15 elections.

16 REPRESENTATIVE HELFIN: And you know as well
17 as I that it is very, very hard to legislate that people
18 do the right thing or husbands be good fathers or that
19 kind of stuff.

20 So, that would be a difficult issue but, you
21 know, maybe we need to look at the criminal punishment
22 for that side and maybe make it a larger increase and
23 have officers supervising -- trained officers
24 supervising. I don't know how we correct that but it's
25 certainly an interesting dilemma that we face, the fair



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1 people that we put in charge to make sure we have open
2 voting are the ones suppressing the issue.

3 MR. BLEDSOE: And I would agree, although I
4 would say I think that the law does cover that situation
5 but it's just not being utilized.

6 I think when you violate a law relating to
7 your office, that's official misconduct under 39.01 of
8 the Penal Code. I think that's very clear. It may not
9 be a felony but it's a Class A misdemeanor that you can
10 be removed from office for engaging in that activity.
11 So, I do think there is a law that would apply, official
12 suppression.

13 REPRESENTATIVE HELFIN: Now, another thing
14 we've talked about during the day is provisional
15 ballots, and there's one state that gives you two days
16 to correct and they were correcting like a third of
17 them, and the other state you had, I think, seven days
18 and they were correcting like two-thirds or
19 three-fourths.

20 So -- and the bill before us today has a
21 provisional ballot language but it's not real clear. Do
22 you think if we went to a provisional ballot system that
23 we gave them 10 days because you have 10 days here
24 before you have to canvas the votes, would that be
25 beneficial to make sure that -- that when they -- when



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1 you vote a provisional ballot, that they have to
2 identify whether it's provisional ballot, special ballot
3 because they don't have ID or for whatever -- ballot
4 because they don't have -- their signatures don't match
5 or whatever, would that help us in any way or would that
6 confuse the issue, trying to train these election
7 personnel even more?

8 MR. BLEDSOE: What I would propose in a
9 situation like that to make it fair to the individual
10 because some individuals -- most of the ones we're
11 talking about here probably don't have great means,
12 whereas, what you would do is you would create a
13 presumption that -- that the ballot is valid, and then
14 have the authorities screen those that have been
15 objected to and then they come up with a list of those
16 that are problematic at that point, and then they would
17 see to it that they could come up with some kind of
18 convenient set of circumstances in which they could help
19 resolve that issue, so that if you're poor or you don't
20 have transportation, you live 60 miles from the county
21 seat in Presidio County and you just can't afford to go
22 to the county seat again and that's where the issue has
23 got to believe resolved, to try to come up with some
24 fair process to handle that but have that be screened
25 and put the onus on the government rather than on the



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1 individual because --

2 I mean, let's be honest and think about it.
3 We're talking about individuals who may not have the
4 most education in the world and some things that may
5 occur logically to some people may not occur logically
6 to others. They may be just as righteous as they could
7 be. Their ballot may have been totally legitimate but
8 they may not know how to defend that ballot and they don't
9 have money to go get a lawyer to put forth their case
10 and the campaigns are, I guess, kind of not going to be
11 involved in that process.

12 So, you know, it puts them in between a rock
13 and a hard place. And you can understand if I'm there
14 trying to defend my ballot and I've got a third grade
15 education and English is my second language, that's not
16 going to be the easiest thing in the world.

17 So, you really need to flip that and go
18 through a whole process where they limit the number of
19 individuals who have to go through that process.

20 REPRESENTATIVE HELFIN: I like the way you
21 think these things out, Mr. Bledsoe, and I hope that
22 whatever we work on this committee, I certainly would
23 appreciate being able to call you.

24 MR. BLEDSOE: Any time.

25 REPRESENTATIVE HELFIN: Thank you.



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1 CHAIRMAN SMITH: Did you have a question?
2 Representative Bonnen.

3 REPRESENTATIVE BONNEN: Thank you, Mr.
4 Bledsoe. I think you've been respectful and very
5 thoughtful in your testimony. I appreciate your doing
6 this.

7 MR. BLEDSOE: Thank you.

8 REPRESENTATIVE BONNEN: I wanted to follow
9 up on Judge Helfin's question on the, for lack of a
10 better way to put it, flipping the burden to the
11 government on the provisional ballot because one of the
12 things -- you don't have to agree with this but it's
13 probably fair to suspect that in those provisional
14 ballots, say in the case of Georgia where they had two
15 days and I think it was about 800 that didn't return,
16 that some of them may not have returned because they
17 weren't valid to be voting. I'm not saying 1 or 5. I
18 don't know.

19 MR. BLEDSOE: It's possible.

20 REPRESENTATIVE BONNEN: Possible. So, if
21 you flip the onus to the government, which I would say
22 probably isn't a terrible idea, I mean, I haven't
23 thought it through but there's some logic to that, would
24 we then want the government to pursue those that they
25 find that shouldn't have voted? Do you follow where



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1 I'm --

2 MR. BLEDSOE: If there's criminal intent.
3 If it's an honest and innocent mistake -- so, I would
4 always want to segregate those. If you find someone in
5 either party involved with some orchestrated campaign to
6 commit a fraud, that's a criminal act.

7 REPRESENTATIVE BONNEN: Right, and I agree
8 with that. I guess my concern would be -- and I'm not
9 arguing against having the onus on the government, I
10 think that makes sense, but I just want us to think
11 through this -- this -- the place we would be putting
12 ourselves at that point. I mean, it would be somewhat
13 of a dangerous spot.

14 I could be wrong because, as you say, it's
15 what that intent was. Did this man, woman or whomever
16 come down here with an intent to inappropriately cast a
17 ballot they weren't supposed to or didn't have the right
18 to or whatever, you know, if the government has now
19 uncovered that maybe they shouldn't have been there,
20 then there's some degree of responsibility the
21 government may have at that point when it may not have
22 been -- you know, do you know what I'm saying, where I'm
23 going is I'm wondering if we put the government in a
24 position, if there would be a way to avoid the
25 government putting a lot of effort into investigating



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1 voters that don't need to be investigated. Does that
2 make sense?

3 MR. BLEDSOE: I think it does but I think
4 that starts out with the election officials because they
5 are the ones that are going to be doing the screening,
6 and hopefully they would only have individuals who they
7 have good reason to believe presented a problem.

8 I think that -- I would think that if
9 someone was engaged in a situation where they were not
10 legitimately voting that those would be the ones -- if
11 there was an investigation, those would be the ones
12 where there would be a path that would lead to them and
13 say, well, these are the ones where there's a problem
14 instead of the ones where there's a different middle
15 name or sometimes it's just common sense and common
16 sense --

17 REPRESENTATIVE BONNEN: I agree.

18 MR. BLEDSOE: -- is not applied and it's --

19 REPRESENTATIVE BONNEN: I think some of the
20 time, too, though, they will fall into a gray area that
21 says I don't think this individual was really a part of
22 any criminal intent but without some further steps, I
23 can't prove that up but, anyway, enough on that. I
24 think that's a valid thought.

25 One of the things I was going to ask is on



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1 voter intimidation, which should never occur and is very
2 bothersome and I will tell you I personally don't know
3 of it but I would be ignorant to suggest it doesn't or
4 hasn't or -- doesn't occur, so, I want to be respectful
5 of that.

6 But, in that regard, the election workers,
7 as I understand it, are selected or -- they're not
8 really selected, it's anyone willing largely,
9 unfortunately, but it's -- it is based through, as you
10 were discussing, the party system.

11 So, wouldn't there be -- shouldn't there be
12 a natural balance that would occur at the polls? Why
13 would -- I mean, how would there be -- why would there
14 not be a balance there to call out a voter suppression
15 or intimidation scenario?

16 MR. BLEDSOE: Well, I think that frequently
17 what we find is, of course, that the officials at the
18 polling site are involved in the voter intimidation, and
19 so, that would be a problem if they're part of the
20 process.

21 REPRESENTATIVE BONNEN: Not to interrupt you
22 there but I guess that's my point, though, isn't there a
23 balance in who the voters -- I mean, the poll workers,
24 isn't there a balance between party and who those
25 individuals end up being?



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1 MR. BLEDSOE: Well, I think that like, for
2 example, with the early voting sites and things, to the
3 victors go the spoils is what the current law is in
4 Texas. So, you do have individuals when you go to a
5 polling site that may be of a different party or what
6 have you, and that does create a true dynamic that's --
7 that's problematic, and I understand that.

8 That's -- maybe in some ways that's been our
9 culture in Texas but it can, you know, lead to -- lead
10 to problems.

11 REPRESENTATIVE BONNEN: Certainly.

12 MR. BLEDSOE: And it really does lead to
13 problems, and I know if you're paying somebody \$7 an
14 hour or what have you, they're not going to be
15 necessarily -- unless they're retired and just really
16 don't need the money and are doing it for a good reason,
17 they may not be the most qualified person to -- to
18 actually act in that situation.

19 You need people that exercise good common
20 sense. You need people that have the patience of Job
21 sometimes because of some of the things that actually
22 occur, and you don't always find that with the workers.

23 I don't mean to indict. I've been an
24 election worker myself, a \$7 an hour election worker
25 before. So, I don't mean to condemn election workers



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1 but there's a problem with how the system is set up.

2 REPRESENTATIVE BONNEN: Well, yeah, and I
3 think we would greatly served, not only this committee
4 but this body as a whole, the legislature -- I think one
5 of the bigger issues, regardless of voter ID or anything
6 else, is the fact that we pay \$7 an hour for someone to
7 come in and understand a very complex process and deal
8 with people who --

9 I mean, I can remember one of the first
10 races I ever ran in a suburban community in Pearland, I
11 mean, people just -- I mean, literally almost running
12 people over, not intentionally, to get parked and get in
13 line to vote, and they're fired up and they want to get
14 in there and they want to make sure they're on time and
15 yet I've got a \$7 person in there helping make all that
16 work and, frankly, a \$7 person who wasn't paid \$7 five
17 days earlier to be trained for probably a lot more time
18 than they ever were.

19 But, anyhow, I think that's a greater issue
20 that we would be better off working on, and I also would
21 like us to, on these issues of voter suppression and
22 intimidation -- I mean, I have not reviewed all the
23 bills before this committee but, I mean, do we have any
24 bills before this committee that address those issues?
25 We do? I mean, we need to look at those. We need to --



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1 voter suppression bill info.

2 CHAIRMAN SMITH: Just for the record, we're
3 20 minutes over the allotted time. Just take that into
4 consideration, Representative Helfin.

5 REPRESENTATIVE HELFIN: And I'll also notice
6 as Representative Bonnen, for someone to have their vote
7 invalidated because of one election judge I think is an
8 injustice. Shouldn't we not have a provision if your
9 vote is not going to -- someone is going to determine
10 your vote doesn't count or provisional, the election
11 judge for that precinct sign off on that as well? If we
12 have two minds at least --

13 REPRESENTATIVE BONNEN: There should be a
14 balance --

15 REPRESENTATIVE HELFIN: A balance, yeah.

16 REPRESENTATIVE BONNEN: -- in that worker,
17 and it would resolve some of the issues, and not that we
18 should ever do away with a poll watcher or anything.
19 That's a very good right and a very good tool when used
20 but, I mean, to have that balance is significant because
21 I think you raise a fair point.

22 I mean, I think it's a serious
23 responsibility for someone to say I'm going to turn away
24 this individual from their opportunity to vote today,
25 especially considering we have the tool, which I think



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1 is very important and -- provisional ballot -- and we
2 have had a lot of talk about provisional ballots but the
3 reality is the provision ballots are used in close
4 elections. I mean, we don't count those ballots unless
5 it's of an impact, of a necessity, I guess you would
6 say.

7 But that could also come down to this issue
8 of better trained, better experienced, more competent
9 poll workers.

10 REPRESENTATIVE HELFIN: And then one other
11 quick --

12 REPRESENTATIVE BONNEN: I'm through but
13 thank you very much. Appreciate your thoughtfulness.

14 REPRESENTATIVE HELFIN: I agree that if
15 they're provisional ballots, they should be marked
16 special provisional ballots in some manner.

17 If it proves later to be there was some
18 fraudulent intent, I believe they ought to be
19 prosecuted, quite frankly.

20 MR. BLEDSOE: I think if we look at like,
21 for example, Minnesota today and the election contest,
22 you can just see normally there will be close elections
23 that take place.

24 We know we had one in Dallas involving state
25 representative this time. So, every vote counts and 5



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1 or 10 votes can make a difference in the outcome. So, I
2 think we have to be aware of that.

3 UNIDENTIFIED SPEAKER: Let me just say that
4 there's been some discussion about the burden on being
5 with the state or with the voter and the difference
6 between those two, and I think we've heard the testimony
7 tonight that gives us some good general idea of the
8 impact of that in that effectively Georgia and Indiana
9 put that burden on the voter. In those instances, about
10 a third of the provisional ballots are counting,
11 whereas, Florida puts the burden on the state, a
12 majority of the ballot board, and we have these boards
13 already in place in the State of Texas. It does not
14 require the creation of any new organization. The only
15 way it wouldn't count is if the voter doesn't do what
16 they want to do within 10 days and this ballot board by
17 a majority vote determines that the signature is not
18 likely to be the same person as the person who signed
19 the voter registration card.

20 And certainly it's not perfect, and I think
21 everybody understands there's no pure scientific way to
22 draw that line either but it certainly is dramatic in
23 terms of the difference of the percentages in terms of
24 which votes are counting and which votes are not
25 counting.



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1 So, I realize that those people who are
2 opposed to the concept we are discussing today would
3 just as soon we all go away but to the extent that the
4 legislation is going to be considered, I think everybody
5 would also agree that opting for that mechanism rather
6 than the alternative is far preferable.

7 REPRESENTATIVE BONNEN: I had a comment. I
8 mean, I ended up getting here by winning the right to be
9 in a run off by 9 votes, and I think that when we get
10 into the discussion of elections -- and I'm not going to
11 get into this but, I mean, city elections, we had -- the
12 City of Clute had a council position seat literally tie,
13 so, they had a run off.

14 But my point of raising that -- and I know
15 everyone here is well aware of this but, you know, we
16 get caught up in talking about a presidential race,
17 maybe a gubernatorial race but the reality is we have so
18 many local positions of significant importance that are
19 in extraordinarily tight contested races that all this
20 has a tremendous impact on.

21 I mean, as I tell people, I've been here now
22 12 years, for good or for bad, however you feel about
23 that, I respect it, but the point is when those 9 votes
24 made that difference, it made a 12-year decision is the
25 reality. So, I think the significance is well beyond



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1 these large national races, not that they're not
2 important, as we've learned.

3 I'm done, Mr. Chairman.

4 CHAIRMAN SMITH: Any other questions,
5 members?

6 MR. BLEDSOE: Thank you all.

7 CHAIRMAN SMITH: Thank you very much.

8 UNIDENTIFIED SPEAKER: Mr. Chairman, can I
9 just quickly read something really fast? I know that --

10 CHAIRMAN SMITH: Is it really fast? Do that
11 while the Secretary of State's office is coming up.

12 UNIDENTIFIED SPEAKER: Okay. Great. Great.

13 I know that John Fund was here earlier from
14 the WALL STREET JOURNAL, and I've seen Mr. Fund lots of
15 times on Fox and Michelle Malkin, you know, some of the
16 various shows.

17 He's very entertaining but some of the
18 things that he was saying about voter fraud have just
19 proved just to be not true, and I wanted to point that
20 out.

21 In particular, there was an allegation that
22 he made about voter fraud in South Car -- I'm sorry, not
23 in South Carolina but in South Dakota involving
24 incumbent Senator Tim Johnson, who narrowly defeated
25 Republican challenger for a U.S. Senate seat.



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1 And the charges that he made and that he put
2 in his book, the South Dakota Republican attorney --
3 attorney general called the charges just outright false,
4 and there are just numerous as relates to the
5 shenanigans that went on in 2000, Bush v. Gore, and
6 various other elections that he talks about in his book,
7 and a lot of it is just not true.

8 And, you know, it almost seems like
9 Mr. Fund, like some of the other folks that seem, you
10 know, bent on, you know, making sure that this voter ID
11 bill becomes law, that they just -- they're kind of on
12 the tunnel vision course.

13 And so, when he came to testify, he got out
14 of here before we could delve into that but there's a
15 lot of things that Mr. Fund has put in his book have
16 been refuted by fellow Republicans. So --

17 CHAIRMAN SMITH: Okay.

18 REPRESENTATIVE DR. ALLEN: Mr. Chairman,
19 would you please look with me at the bill on Page 8 and
20 on -- Page 8, line 11 at -- which starts: Except as
21 provided by Section D, which is the next paragraph down,
22 fee for a personal identification certificate is \$15 for
23 a person under 60 years of age, \$5 for a person 60 and
24 older, and \$20 for a person subject to the registration
25 requirements under Chapter 2, whichever that is, on the



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1 criminal code procedure.

2 Now, does that mean that if I need ID and
3 I'm under 60 years of age that I need to pay \$15 for
4 that?

5 UNIDENTIFIED SPEAKER: Not if you state that
6 you're obtaining the personal identification certificate
7 for the sole person of voting --

8 REPRESENTATIVE DR. ALLEN: Okay. Now, if I
9 go down --

10 UNIDENTIFIED SPEAKER: -- under this bill.

11 REPRESENTATIVE DR. ALLEN: Yes -- down to D
12 again, the department may not collect a fee for a
13 personal identification certificate issued to a person
14 who states that the person is obtaining the personal
15 identification certificate for the sole purpose. There
16 we go again. If I use this for something else I may be
17 liable --

18 UNIDENTIFIED SPEAKER: I think we need to
19 clarify that.

20 REPRESENTATIVE DR. ALLEN: -- to a felony or
21 something. I just wanted to point that out that it was
22 in there.

23 So, why is that information in here about
24 the amount that a person pays under 60? Why is it
25 there? We don't need to flesh it out. You know, we



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1 could tell them how much bread costs.

2 UNIDENTIFIED SPEAKER: That's the current
3 law. That's how much it currently costs to get --

4 REPRESENTATIVE DR. ALLEN: Why do we have to
5 put it in the bill?

6 UNIDENTIFIED SPEAKER: Well, because they're
7 trying to -- to reduce the fiscal note, I believe, but
8 by not providing a free ID.

9 REPRESENTATIVE DR. ALLEN: We wouldn't have
10 to even mention the cost of it if it's not going to cost
11 anything.

12 CHAIRMAN SMITH: Well, it's only not going
13 to cost you something if you're getting it for purposes
14 of voting. Now, we can get rid of the word sole and
15 clarify. That doesn't mean you can't use it for other
16 purposes after you use it for voting but if the reason
17 you're getting it is so that you can vote, it's free.

18 REPRESENTATIVE DR. ALLEN: Okay.

19 CHAIRMAN SMITH: We all want that.

20 REPRESENTATIVE DR. ALLEN: Do we need to
21 advertise how much the -- the identification costs?
22 Because it may go up. Next year we may come and we may
23 raise the cost of that ID.

24 CHAIRMAN SMITH: Well, it's going to only be
25 free if you're getting for the purpose of voting.



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1 REPRESENTATIVE DR. ALLEN: Why do we have to
2 put this in here, the cost?

3 CHAIRMAN SMITH: Because it's prior law.

4 Yes, would you -- the Secretary of State
5 wish to address that?

6 MR. SEPEHRI: Sure, I'll give it a try. I'm
7 John Sepehri, General Counsel for the Secretary of
8 State's office. Ann McGeehan, director of the elections
9 division is here with me.

10 We're both here to --

11 (Inaudible)

12 MR. SEPEHRI: Sure. We're both here to --

13 They want you, Ann. They don't want me.

14 We're both here to answer questions on
15 behalf of the Secretary of State's office.

16 Go ahead, Ann.

17 MS. MCGEEHAN: I think he just meant he
18 wanted me to introduce myself.

19 MR. SEPEHRI: Sorry.

20 MS. MCGEEHAN: Ann McGeehan with the
21 division of the Secretary of State.

22 MR. SEPEHRI: I felt unloved there for a
23 second.

24 CHAIRMAN SMITH: I don't want to hear
25 another word from her. All you now.



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1 MR. SEPEHRI: Great. We could be in trouble
2 then. No.

3 I think the answer is -- and I think what
4 Representative Smith is trying to say and I don't know
5 that we have any extra expertise on this but I'll take a
6 stab at it.

7 I think all this is trying to do is just
8 amend the existing transportation code, which sets forth
9 the fees. And so, it's just -- we're not -- I don't
10 think this is an attempt to advertise the fees. It's
11 just existing law, and it's just saying except for the
12 purpose of voting, these are the fees.

13 CHAIRMAN SMITH: There's other reasons why
14 they personal identifications, and those reasons,
15 there's no reason to give it to them for free.

16 UNIDENTIFIED SPEAKER: That's right.

17 CHAIRMAN SMITH: There's no constitutional
18 right for these other purposes.

19 REPRESENTATIVE DR. ALLEN: Why didn't they
20 put in there the cost of driver's license and the other
21 things that are listed on this form that cost, that have
22 a fee attached to it?

23 UNIDENTIFIED SPEAKER: Because they're not
24 going to give them away.

25 REPRESENTATIVE DR. ALLEN: I know but my



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1 understanding is if it's listed in the bill, that's what
2 I'm going to pay. Looks like taxing to me.

3 CHAIRMAN SMITH: No. That's current law.
4 That's what they currently charge for that.

5 REPRESENTATIVE DR. ALLEN: Well, we can
6 change the law. That's our purpose of being here every
7 other year.

8 CHAIRMAN SMITH: We don't want to provide
9 free identification for the purposes -- people may be
10 identifications for the private sector for whatever
11 reason, as a part of their employment and there's no
12 reason for taxpayers --

13 REPRESENTATIVE DR. ALLEN: This is not about
14 employment. This bill is about voting.

15 CHAIRMAN SMITH: Right. And that's why
16 Section D provides for a free ID so long as their using
17 it for voting.

18 REPRESENTATIVE DR. ALLEN: A also tells you
19 how much it costs.

20 CHAIRMAN SMITH: Except as provided by
21 Subsection D, and D is the part that relates to voting.
22 It costs --

23 REPRESENTATIVE DR. ALLEN: The cost of the
24 personal identification certificate is --

25 CHAIRMAN SMITH: Right, except as provided



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1 by D.

2 REPRESENTATIVE DR. ALLEN: I see that. I
3 just don't know why it has to be in the bill, the cost
4 of it.

5 You know, how much does a marriage license
6 cost? That costs. It's not listed in there. How much
7 does a divorce paper cost? That's not listed in there.
8 Do you know what I'm talking about? How much -- how
9 much is a gun license bill, you know, a permit to carry
10 guns? I don't carry guns but -- you know what I'm
11 saying? Do you understand what I'm saying?

12 UNIDENTIFIED SPEAKER: I hear you. I hear
13 you.

14 REPRESENTATIVE DR. ALLEN: All right.

15 UNIDENTIFIED SPEAKER: Mr. Chairman?

16 CHAIRMAN SMITH: Yes.

17 UNIDENTIFIED SPEAKER: Just a quick
18 question. I know that we still have two expert
19 witnesses to go.

20 CHAIRMAN SMITH: Right.

21 UNIDENTIFIED SPEAKER: Are we going to hear
22 from the Secretary of State and then go to those
23 witnesses?

24 CHAIRMAN SMITH: That's my intent.

25 UNIDENTIFIED SPEAKER: How long do we want



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1 to stay on the -- I know that our friends from Harris
2 County and our other is from North Carolina --

3 CHAIRMAN SMITH: Yeah, we should have these
4 experts.

5 I wanted to ask you a quick of questions --

6 UNIDENTIFIED SPEAKER: I get it.

7 CHAIRMAN SMITH: -- about this -- I just
8 would like to get at this issue of confusion regarding
9 the names because it's been repeated again and again and
10 again in the testimony, and I think it would be helpful
11 for us to have an understanding of how that is currently
12 treated, how many people do not get to vote because
13 there's a typo in their name or a junior is missing or
14 other issues of that type, how is that handled?

15 MR. SEPEHRI: Sure. Why don't I sort of
16 give you a little introduction, and I think Ann can give
17 you some good specifics on that.

18 But this issue has been brought to our
19 attention before, and the process is that when people
20 apply for a voter registration, there's an application.
21 They have to put their driver's license number on it.
22 If they don't have that, they represent they don't have
23 that, they put their SSN, the last four digits on it,
24 and when it comes to us, we take those -- that data and
25 we match it against team or we go to the Social Security



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1 Administration and we try to do a match there.

2 So, you sometimes run into problems if there
3 are spaces in between parts of a last name or various
4 things like that, and so, those sorts of problems have
5 been brought to our attention before. In fact,
6 Representative Hochberg has worked with our office
7 repeatedly and I believe -- and, again, I'm going to
8 have Ann here give you more specifics but we've actually
9 taken a large number of steps to try and cut down the
10 instances where there are mismatches, if you will, due
11 to some small error, or not even an error but just a
12 clerical type thing, and we have succeeded, I believe,
13 in considerably cutting a number of those down.

14 I'll let Ann explain that process to you
15 some more.

16 MS. MCGEEHAN: Okay. The -- I think what
17 may be confusing, though, since there's two different
18 processes in place, what Representative Hochberg's bill
19 gets at is verifying a voter registration application.
20 And so, there there's more leeway because you have a
21 bunch of different matching criteria, date of birth,
22 Social Security number, TDL number.

23 I think the question that's come up here
24 tonight is if you -- as Dr. Allen represented, if a
25 voter came in and came in with a birth certificate under



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1 their maiden name, now they're married and so, you know,
2 their other ID may have their -- or they may be on the
3 list under their married name, what would that poll
4 worker do.

5 And I think the way that Senate Bill 362 is
6 written currently is that's really going to be a fact
7 question for the poll worker to determine.

8 In that situation, if the voter comes in
9 with a birth certificate, they're going to have to come
10 in with another government issued nonphoto ID, and then
11 the poll worker would have to look at those documents
12 and say, well, yeah, we really think this is Dr. Alma
13 Allen, or they may not be able to make that
14 determination.

15 CHAIRMAN SMITH: And is that different than
16 the way it is done under current law in terms of
17 providing nonphoto identification? And how -- and
18 whether they interpret that in some manner to determine
19 whether that is you or whether there's just a
20 presentment test, as Representative Anchia indicated?

21 MS. MCGEEHAN: Under current law, I think
22 the assumption is that a voter whose name changed will
23 update their voter registration, and they can do that by
24 filing a new voter registration application.

25 As a practical matter, it may not come up as



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1 much because if your voter registration certificate is
2 the same name as you're listed on the voter registration
3 rolls, that issue may not come up with poll workers
4 today but the strict answer is you're supposed to file a
5 name change with the local voter registration.

6 CHAIRMAN SMITH: And clarify this, under
7 current law, can I not present any of the nonphoto --
8 documents on the nonphoto list, it doesn't have to be
9 the voter registration card?

10 MS. MCGEEHAN: Right.

11 CHAIRMAN SMITH: So, I can present an
12 envelope from a governmental entity, that's all I can
13 present?

14 MR. SEPEHRI: Yeah, addressed to you, that's
15 right.

16 CHAIRMAN SMITH: And that's sufficient?

17 MR. SEPEHRI: That would be.

18 CHAIRMAN SMITH: You don't have to have a
19 voter's registration card, you don't have to have a
20 driver's license, just an envelope; is that right?

21 MS. MCGEEHAN: That's correct.

22 CHAIRMAN SMITH: Okay. And in that
23 instance, if junior is on my voter registration card and
24 junior is not on the envelope I lay down, what does the
25 poll worker do, current law?



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1 MS. MCGEEHAN: Well, the law doesn't require
2 an exact match. So, it doesn't say that you have to
3 present identification that shows your name exactly as
4 it appears on the list of registered voters.

5 CHAIRMAN SMITH: Okay. So, there is some
6 exercise of discretion on their part to the extent there
7 is a typo or letter missing or a junior absent, et
8 cetera; is that right?

9 MS. MCGEEHAN: That's correct.

10 CHAIRMAN SMITH: So, is it fair to say under
11 current law there's a gray area on when the name is
12 enough different not to count versus enough similar to
13 count?

14 MS. MCGEEHAN: Right. I mean, yes. I mean,
15 the poll worker makes that ultimate decision whether to
16 accept the voter or not. And so, if they don't feel
17 like the voter is who they are claiming to be --

18 CHAIRMAN SMITH: And that discretion is
19 there and is really kind of difficult to eliminate
20 whether we're talking about current law or whether we're
21 talking about the Senate Bill, there's no way to
22 eliminate that discretion?

23 MR. SEPEHRI: To entirely eliminate
24 discretion?

25 CHAIRMAN SMITH: Yes. You wouldn't want to



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1 do -- you wouldn't want to have a bright line test that
2 is so bright that if there was a letter different
3 between one item and a number, they couldn't -- you
4 wouldn't want that kind of a bright line test, would
5 you?

6 MS. MCGEEHAN: I wouldn't think so, knowing
7 the kind of clerical errors out you there, but that's
8 policy.

9 CHAIRMAN SMITH: So, to some extent, in
10 order to advance best public policy, we have no choice
11 but to provide the poll workers with some degree of
12 discretion in looking at a name and considering the
13 extent to which it doesn't match.

14 MR. SEPEHRI: We want to be careful about
15 intruding on your domain in terms of what's good or bad
16 policy but I guess -- I think we're both saying that
17 it's hard to see an entire elimination of discretion
18 under old or new law.

19 CHAIRMAN SMITH: Okay. Any other questions?

20 REPRESENTATIVE DR. ALLEN: Can I give an
21 example of this one? This is my voter registration. It
22 says Alma A. Allen. I've changed my name. This is my
23 birth certificate. I was born Toliver. I can't go back
24 and change my birth certificate. I was not born Allen.
25 So, I can't change this, and the two -- neither look



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1 alike.

2 So, if you were to look at this and you
3 would not give me -- you would not let me vote if you
4 didn't know my name was Toliver. I have been Allen for
5 52 years. I can't change it.

6 MR. SEPEHRI: You're right, you can't change
7 that, Dr. Allen, but I think it's possible under the
8 wording of the proposed bill that a voter could come in
9 with the two nonphoto IDs, have one, which is your birth
10 certificate that has whatever information that has on it
11 and then another ID that corroborates in part with your
12 birth certificate so that the poll worker might have
13 discretion to accept you even though your birth
14 certificate --

15 REPRESENTATIVE DR. ALLEN: That's three IDs
16 then, three forms, one, two --

17 MR. SEPEHRI: I believe under Senator
18 Frazier's bill that's up for consideration tonight, you
19 don't have to have your voter registration and -- it's
20 one photo ID or two nonphoto IDs, one of which could be
21 a voter registration card.

22 REPRESENTATIVE DR. ALLEN: Okay. So, if I
23 did this, I would have to bring something else.

24 MR. SEPEHRI: Well, if you're not using a
25 photo ID, I believe under the current bill, you'd have



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1 to have something else anyway. You'd have to have two
2 nonphoto IDs.

3 REPRESENTATIVE DR. ALLEN: I'd have to have,
4 what, a light bill or something with my name on it? No
5 picture?

6 MR. SEPEHRI: Well, whatever the list here
7 says in Section --

8 REPRESENTATIVE DR. ALLEN: It's giving you
9 some examples.

10 MR. SEPEHRI: Right. Right. Yes.

11 CHAIRMAN SMITH: Both documents you have
12 would be sufficient.

13 UNIDENTIFIED SPEAKER: Right there.

14 REPRESENTATIVE DR. ALLEN: These?

15 UNIDENTIFIED SPEAKER: Yes.

16 REPRESENTATIVE DR. ALLEN: I'm going to pass
17 them down there so you can just kind of visualize what
18 I'm talking about. Don't get my Social off of there. I
19 have no money in the bank.

20 UNIDENTIFIED SPEAKER: For the record, Dr.
21 Allen, I would let you vote.

22 REPRESENTATIVE DR. ALLEN: You would let me
23 vote?

24 UNIDENTIFIED SPEAKER: Yes, ma'am.

25 REPRESENTATIVE DR. ALLEN: I love you, too.



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1 CHAIRMAN SMITH: Any other questions,
2 members, of the Secretary of State?

3 Representative Anchia.

4 REPRESENTATIVE ANCHIA: Thank you.

5 I wanted to -- I wanted to ask you,
6 Mr. Sepehri, how you interpret the Allen fact pattern as
7 presented in light of the language in the Frazier bill
8 that says if the voter's identity can be verified from
9 the documentation presented. Okay?

10 MR. SEPEHRI: Sure.

11 UNIDENTIFIED SPEAKER: How do you interpret
12 that language vis-à-vis certain -- her situation? You
13 said there might be a construct in which you would vote.
14 Articulate that for me based on this language.

15 MR. SEPEHRI: Sure, Representative Anchia.
16 I think this language would allow for a poll worker to
17 exercise some discretion in terms of determining whether
18 that poll worker thinks the ID presented enables that
19 person -- the poll worker to verify the voter's
20 identity.

21 And I think under this language, you could
22 have a voter come in with a birth certificate that has a
23 maiden name, a born name, and another piece of nonphoto
24 ID that has a married name and the poll worker
25 theoretically could look at this and look at both pieces



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1 of ID and see that the first name is the same, birthday
2 or some other information is the same on both pieces of
3 ID and determine that the person is who they say they
4 are and is entitled to vote.

5 On the other hand, the poll worker could go
6 the other direction, too.

7 REPRESENTATIVE ANCHIA: So, it is purely
8 subjective at that point?

9 MR. SEPEHRI: You know, I -- I don't --

10 REPRESENTATIVE ANCHIA: I mean, what
11 objective criteria do we have under the voter's identity
12 can be verified from the documentation?

13 MR. SEPEHRI: I don't know that the bill
14 provides a lot of criteria.

15 REPRESENTATIVE ANCHIA: Right. Right. So,
16 there's very little guidance in the bill, in fact, on
17 how to deal with a situation like that, right?

18 MR. SEPEHRI: I think that's fair.

19 REPRESENTATIVE ANCHIA: And the outcome
20 could be as likely one way or the other?

21 MR. SEPEHRI: Well, I wouldn't want to
22 speculate on the likelihood of the outcome one way or
23 the other, other than just to say it's possible in
24 either direction, I think.

25 REPRESENTATIVE ANCHIA: So, if one piece



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1 of -- if one piece of documentation provided does not
2 have the name on the poll -- in the poll book but does
3 the other name, you think that -- you interpret this
4 language as allowing the -- allowing the poll worker to
5 accept that person to vote a regular ballot?

6 MR. SEPEHRI: I think this language could be
7 read that way.

8 REPRESENTATIVE ANCHIA: Okay. Okay. So, in
9 fact, you don't need -- you don't need a name match then
10 is your interpretation of this language?

11 MR. SEPEHRI: Well, I think if a voter came
12 in and said this is my birth certificate and had another
13 document that had a married name and -- I mean, you
14 could -- a poll worker could look at those two documents
15 and theoretically under this language come to the
16 conclusion that the person coming to vote is the person
17 on the list.

18 REPRESENTATIVE ANCHIA: What if the two
19 documents presented had different addresses and
20 different names?

21 MR. SEPEHRI: Well, I mean, I think you're
22 getting into a situation where just depending on each
23 particular instance, a poll worker may or may not be
24 able to look at the two pieces of ID and conclude in
25 their opinion that the person is the same person and in



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1 that case may not accept the voter.

2 I mean, I think we're getting a bit
3 hypothetical. I did say I think it could be either way.
4 I don't think that, you know, it would be safe to assume
5 that someone coming in with a birth certificate with a
6 maiden name and a document that has a different surname
7 is automatically going to be accepted under this
8 language.

9 REPRESENTATIVE ANCHIA: Okay. Good. Thank
10 you.

11 CHAIRMAN SMITH: Question real quick.

12 Do you see the language in the Senate bill
13 in terms of the way in which the poll worker exercises
14 that discretion as being different than current law?

15 MR. SEPEHRI: Well, I think probably to the
16 extent there's discretion under the current law,
17 probably not but I think this would be a good question
18 for Ann to expound on.

19 MS. MCGEEHAN: The language in Senate Bill
20 362 is different than what appears in current law. It
21 definitely puts a burden on the poll worker to verify
22 the documentation and verify that is the same person.

23 CHAIRMAN SMITH: There could be discretion
24 under current circumstances that could be considered by
25 some, I think, as subjective but this bill certainly



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1 has, you know, affirmative language that places a duty
2 on poll workers that is not in current law, I think.

3 MS. MCGEEHAN: Right.

4 CHAIRMAN SMITH: So, you see the current law
5 language in terms of the extent to which it impacts the
6 discretion of the poll worker as being more likely to
7 result in the voter being able to vote than the Senate
8 Bill?

9 MR. SEPEHRI: Well, I think current law just
10 doesn't allow for -- current law, you either show up
11 with certain documents that are listed or you don't, and
12 depending on what you show up with, there's a decision
13 tree.

14 CHAIRMAN SMITH: But they still compare that
15 language with the voter rolls, right?

16 MR. SEPEHRI: They do, and that's why I
17 believe there is some discretion that is subjective
18 inherent in the --

19 CHAIRMAN SMITH: If I show up on the voter
20 rolls I'm Todd Smith and I lay a driver's license down
21 for Barbara Jones doesn't mean I get to vote just
22 because I laid a driver's license down, right?

23 MR. SEPEHRI: That's correct.

24 CHAIRMAN SMITH: They're still exercising
25 that same type of discretion and comparing what I laid



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1 down to what's on the roll?

2 MR. SEPEHRI: That's correct. And it
3 doesn't even need to be as extreme as that. I mean, as
4 you pointed out earlier, it can be a closer situation
5 than that. And there's probably still some discretion
6 inherent in current law.

7 CHAIRMAN SMITH: Yeah. So, do you think
8 that there's something about the language in current law
9 that is more voter friendly in terms of the vote
10 counting than what we're finding in the Senate Bill and
11 how it's being laid out?

12 MS. MCGEEHAN: I think the current law just
13 says if a voter comes in and presents their voter
14 registration certificate, that's the end of the story
15 and they get to vote.

16 If the voter comes in and presents one of
17 the other forms of ID that's spelled out in the statute,
18 they get to vote.

19 Now, if the poll worker thinks that they've
20 obtained it fraudulently, they might challenge that
21 voter later on but for purposes of accepting that voter
22 for voting, they're not really given any discretion to
23 go outside that document.

24 CHAIRMAN SMITH: As long as what, the names
25 match and the address match? I mean, isn't there some



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1 basic requirement that the identification --

2 MS. MCGEEHAN: The poll worker is supposed
3 to review the signature on a voter registration
4 certificate with the way they sign in on the poll list.
5 That's in current law.

6 CHAIRMAN SMITH: Okay.

7 MS. MCGEEHAN: But if they present one of
8 the other forms of identification, there is no signature
9 comparison.

10 UNIDENTIFIED SPEAKER: Doesn't the -- if
11 they present another form of photo ID, is there not a
12 requirement that the name be at least similar to the
13 name on the voter registration, on the rolls?

14 MS. MCGEEHAN: Let me just look at the law
15 real quick here.

16 In 63.0101, it simply says: The following
17 documentation is acceptable as proof of identification
18 under this chapter, and then it lists that a driver's
19 license issued by DPS, a form of identification
20 containing the person's photograph that establishes the
21 person's identity, so, that's one form of ID where the
22 judge would have to make a decision, a birth
23 certificate, United States citizenship papers issued to
24 the person, United States passport, official mail
25 addressed to the person by name from a governmental



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1 entity.

2 UNIDENTIFIED SPEAKER: In looking at whether
3 one of those documents establishes identity, there would
4 be some exercise of discretion --

5 MR. SEPEHRI: Discretion.

6 UNIDENTIFIED SPEAKER: -- in terms of the
7 extent to which it matches what's on the rolls?

8 UNIDENTIFIED SPEAKER: Wouldn't that be only
9 in the case of the photo? When you're talking identity,
10 wouldn't that be only in the case of the driver's
11 license that there's an affirmative determination of
12 identity?

13 MS. MCGEEHAN: The only one that the statute
14 points out is a form of identification containing the
15 person's photograph other than the -- not the TDL but if
16 it's just like a Sam's card or something like that, that
17 has to -- that's where the judge has discretion.

18 UNIDENTIFIED SPEAKER: But otherwise, it's a
19 presentment standard, correct?

20 MS. MCGEEHAN: I believe so.

21 UNIDENTIFIED SPEAKER: But even with the
22 presentment standard, there still is an exercise of
23 discretion on the part of the poll worker to determine
24 whether there's a sufficient match with what's on the
25 voter rolls, right?



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1 MR. SEPEHRI: I think we're saying it may
2 not necessarily be spelled out there but that certainly
3 if you get somebody that brings in a utility bill or
4 something where the name only half looks like the name
5 on the rolls, then that could be a situation where you
6 might have an exercise -- I think that's what --

7 MS. MCGEEHAN: I think the answer to your
8 question is not directly addressed by current law.

9 CHAIRMAN SMITH: Otherwise, you could lay
10 down anybody else's utility bill and be able to vote and
11 that's clearly not the law, that I can bring in anybody
12 else's utility bill, lay it down and vote or, you know,
13 lay down the utility bill of someone close to my name
14 but not the same person.

15 We're not ever going to get away from some
16 degree of exercise of discretion on the poll worker.

17 MR. SEPEHRI: I think that's correct.

18 CHAIRMAN SMITH: Representative Bohac. I'm
19 sorry.

20 REPRESENTATIVE BOHAC: I just had a
21 couple -- a few very quick questions that hopefully will
22 lend themselves to short answers.

23 On the -- let's say a person has their
24 maiden name on their voter registration card, so,
25 therefore, they're on the poll books with their maiden



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1 name, and they come and they don't have their card, like
2 most of us do not carry our card with us, you just show
3 your driver's license, and it has your married name on
4 there, is that person going to -- is their vote going to
5 be counted provisionally or are they going to be able to
6 vote a regular ballot under current law?

7 MS. MCGEEHAN: In that situation, they come
8 in and there's going to be a photo, I guess, on their
9 driver's license, to be honest, the Election Code
10 doesn't really address that. I mean, it -- it assumes
11 that when a voter changes their name, they're going to
12 do an address update. So, it may be -- I know we've got
13 Harris County in the room. I'd be interested to hear
14 what they have to say to that but that -- that question
15 is not specifically addressed.

16 REPRESENTATIVE BOHAC: In other words, good
17 question.

18 MS. MCGEEHAN: Yeah.

19 REPRESENTATIVE BOHAC: Okay. That means
20 it's a good question with regard to the Senate Bill,
21 too, because we're not addressing it in the code today
22 and we may not be addressing it in the Senate Bill
23 specifically either.

24 With regard to the photo ID, right now
25 you're required to have your registration card. My



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1 parents believe they still have to have that voter
2 registration card. So, they scurry about their house
3 every election cycle. And I say: Mom, dad, you don't
4 have to have that card. Just go show your driver's
5 license.

6 And it's refreshing for people to know that
7 you just have to show an ID but, really, you have to
8 show more than an ID. When you go in and show your
9 driver's license, you do have to sign something, right?

10 MR. SEPEHRI: You have to sign something
11 saying that you're not in possession of your voter
12 registration certificate at that time at the polls.

13 REPRESENTATIVE BOHAC: Right. So, there
14 really is an extra step that you have to go through,
15 correct?

16 MS. MCGEEHAN: Correct.

17 MR. SEPEHRI: Yeah.

18 REPRESENTATIVE BOHAC: And now here's the
19 third question. Well, you have already answered that
20 with the discretion elements of the first -- of the
21 first question that I asked you, so, I'll pass.

22 REPRESENTATIVE HELFIN: One of the gentlemen
23 that testified earlier showed us his voter ID card and
24 it was the size of a driver's license, had his photo on
25 it. So, why don't we go to that? It will fit in your



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1 wallet, fit in your purse. I don't have to go home and
2 beg my wife to tell me where I put it last year and that
3 type thing. So, wouldn't that be an effective system to
4 kind of take care of all of these issues?

5 MS. MCGEEHAN: It would -- it would
6 definitely, I guess, answer a lot of these questions.
7 It would -- of course, it wouldn't address everybody
8 because not everybody has a -- has been issued a
9 driver's license or personal ID number but I don't know
10 what the statistics on that are. So, there might need
11 to be other avenues to obtain those photos to put on the
12 certificates.

13 REPRESENTATIVE HELFIN: How many registered
14 voters do we have in the state?

15 MS. MCGEEHAN: It's a little under 13
16 million right now.

17 REPRESENTATIVE HELFIN: And how many drivers
18 do we have in the state?

19 MS. MCGEEHAN: I think it might be 16
20 million. That's a -- that's a guess. That might be a
21 couple of years old.

22 REPRESENTATIVE HELFIN: Okay. Just a
23 thought.

24 CHAIRMAN SMITH: Representative Bohac.

25 REPRESENTATIVE BOHAC: Mr. Chairman, just in



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1 terms of an editorial comment, I really believe that
2 when people find out -- I realize this is a very
3 contentious debate and there's people on both sides but
4 I think when people find out that under whatever bill or
5 whatever iteration of the bill we pass, if we pass one,
6 that you merely have to show an ID to vote, I think that
7 is going to be freeing to so many people because they
8 honestly think that they have to have and can only have
9 that voter registration card.

10 And because it is so big, you don't carry it
11 in your wallet, you don't carry it in your car. You
12 typically bury it in a drawer and people really scurry
13 about their house the day of the election or the day
14 they go to vote, and they can't find it anywhere.

15 So, in some respects, I believe voter ID is
16 going to be freeing for many people, to know that all
17 you have to do, you only have to present one thing, just
18 go show a photo ID that's a driver's license or a state
19 issued photo ID and you don't have to keep track of the
20 voter registration card.

21 Thank you.

22 CHAIRMAN SMITH: Members, do you all want to
23 continue to ask them questions or do you want to ask
24 them to stay late and ask them at the very end of the
25 night if we have additional questions?



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1 REPRESENTATIVE DR. ALLEN: I want to ask one
2 more question along that same line.

3 CHAIRMAN SMITH: Just do it now? We need to
4 do it now and let the witnesses wait or let the
5 witnesses come up and then finish with them at the very
6 end.

7 REPRESENTATIVE DR. ALLEN: Okay. I want to
8 ask this question. Since we were on the picture ID with
9 the driver's license -- with the voter card that you
10 asked, the driver's license, at the DPS place, they
11 register voters, don't they? All right.

12 MS. MCGEEHAN: Yes.

13 REPRESENTATIVE DR. ALLEN: That's the one
14 that has the camera in it and everything. So, why can't
15 we put -- we put everything else on here. Why couldn't
16 we put registered voter on here? We have on the back
17 allergic to drugs, emergency contact numbers,
18 endorsements, restrictions, roadside assistance. Why
19 couldn't we put on the driver's license registered
20 voter?

21 Grandfather it so every year when your
22 driver's license come up for renewal, we'll register
23 those people. Then the next year we'll register -- if
24 you're new register to vote, we'll go through the
25 process, and it's one piece of paper, one document, one



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1 thing you pay for.

2 MS. MCGEEHAN: I think that's a bill you're
3 hearing tomorrow. I think we just did a fiscal vote on
4 that bill.

5 UNIDENTIFIED SPEAKER: Are you talking about
6 the bill to put the picture on the voter registration
7 card?

8 MS. MCGEEHAN: Right.

9 UNIDENTIFIED SPEAKER: That's Representative
10 Hopson.

11 MS. MCGEEHAN: But he also had a provision
12 in there that said at the voter's option, DPS would have
13 to annotate the driver's license to show that they are
14 registered to vote. I believe that's in Representative
15 Hopson's bill.

16 I think that could be done. It would
17 require some coordination so that DPS sends the data to
18 the Secretary of State. We send it to the county. The
19 county sends it back, and then we would have to send
20 some message back to DPS that that voter did, in fact,
21 get registered.

22 REPRESENTATIVE DR. ALLEN: Can't you do that
23 now?

24 MS. MCGEEHAN: It's all doable now. The
25 only thing is DPS doesn't know if you're registered or



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1 not.

2 So, DPS gives you the opportunity to get
3 registered when you update your driver's license, and
4 then they pass all that to the state -- Secretary of
5 State and to the counties but then DPS never gets word
6 back if that voter registration was actually accepted
7 and that person was issued a voter registration
8 certificate.

9 REPRESENTATIVE DR. ALLEN: One more kick in
10 the mouth, that's all.

11 MR. SEPEHRI: I'm looking through
12 Representative Hopson's bill right now and I'm not --
13 maybe, Ann, you can help --

14 CHAIRMAN SMITH: We'll discuss it in great
15 detail tomorrow. You all are going to be with us,
16 aren't you?

17 MR. SEPEHRI: Sure. We'll be happy to --

18 CHAIRMAN SMITH: Who -- anybody?

19 UNIDENTIFIED SPEAKER: Let's bring in the
20 witnesses.

21 CHAIRMAN SMITH: Okay. I may have a
22 question or two for you at the end of the night.

23 MS. MCGEEHAN: We'll be happy to stay.

24 CHAIRMAN SMITH: All right. Thank you.

25 MR. SEPEHRI: We'll be back there.



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1 CHAIRMAN SMITH: George Hammerlein
2 representing the Harris County Tax Office, is neutral on
3 the bill.

4 Do we have to turn the lights off?

5 I actually have some.

6 UNIDENTIFIED SPEAKER: Members, a few
7 minutes of their presentation is some sort of a video
8 presentation. Recess for 10 minutes.

9 (Recess.)

10 CHAIRMAN SMITH: Please proceed. Are you
11 going to do the film first?

12 MR. HAMMERLEIN: No, sir. I was going to
13 introduce myself and kind of explain what you're about
14 to see.

15 CHAIRMAN SMITH: State your name and who you
16 represent.

17 MR. HAMMERLEIN: My name is George
18 Hammerlein. I'm with the Harris County Tax Office. I'm
19 the director of voter registration.

20 The committee asked us to come and see if --
21 they asked us if there were any cases of what we thought
22 perhaps was votes that were cast in a questionable
23 manner that a requirement for a photo ID may have
24 prevented those questionable votes.

25 And so, we looked through some histories and



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1 some files and came up with a few cases. So, the first
2 case is story from the local NBC affiliate in Houston,
3 Texas. And with that, I'll just show it.

4 UNIDENTIFIED SPEAKER: Can you repeat what
5 the committee asked you to do? Can you --

6 MR. HAMMERLEIN: They asked us are -- do you
7 know of any --

8 UNIDENTIFIED SPEAKER: Who is they?

9 MR. HAMMERLEIN: Chairman Smith.

10 UNIDENTIFIED SPEAKER: Okay. Chairman Smith
11 asked you to come and present information on --

12 MR. HAMMERLEIN: He said do you know were
13 there any cases that you have in Harris County that you
14 think that votes that were cast that probably should
15 have not been cast that a requirement for a photo ID
16 would have prevented or would have caught those votes.

17 UNIDENTIFIED SPEAKER: Okay. And had you
18 provided any of this to Representative Smith previously,
19 any of this information?

20 MR. HAMMERLEIN: No, sir.

21 CHAIRMAN SMITH: Okay. Okay. Thank you.

22 MR. HAMMERLEIN: All right. If this works,
23 we'll all be happy.

24 (Tape played as follows:

25 UNIDENTIFIED SPEAKER: Reporter Amy Davis



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1 shows you how thousands of those voters could sway this
2 election, voters who aren't even alive.

3 MS. GUIDRY: All in all, a great person, a
4 great woman.

5 MS. DAVIS: Alexis Guidry credits her
6 mother --

7 MS. GUIDRY: Just a wonderful person.

8 MS. DAVIS: -- for who she is today.

9 MS. GUIDRY: As far back as I could
10 remember, they've always voted in the election.

11 UNIDENTIFIED SPEAKER: Are you here to vote?

12 MS. DAVIS: And the March, 2008 primary was
13 no exception. Voting records show Alexis' mom, Gloria
14 Guidry, cast her ballot in person near her South Houston
15 home.

16 MS. GUIDRY: Which is very shocking, a
17 little unsettling.

18 MS. DAVIS: Unsettling because Guidry died
19 of cancer ten months before that March primary.

20 MS. GUIDRY: She would be outraged that
21 somebody would fraudulently cast a vote in her name.

22 MS. DAVIS: And Trent Seibert of Texas
23 Watchdog says you should be, too.

24 MR. SEIBERT: This is really concerning.
25 It's worrisome.



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1 MS. DAVIS: Seibert has a nonpartisan news
2 group on the web. Texas Watchdog compared Harris County
3 voter registration rolls with the Social Security death
4 index and found more than 4,000 matches, registered
5 voters that it appears are already dead.

6 UNIDENTIFIED SPEAKER: It looks like Linda
7 voted.

8 MS. DAVIS: Like Henderson Hill's late wife,
9 Linda.

10 MR. HILL: I would like to know who did it
11 myself.

12 MS. DAVIS: We don't know who used Linda
13 Hill's or Gloria Guidry's IDs to vote but we do know if
14 their names had been purged from voter rolls after they
15 died, using their IDs would not have worked.

16 MR. SEIBERT: This is a red flag. No matter
17 where you are, it should set off alarm bells. Someone
18 needs to take a look at this.

19 UNIDENTIFIED SPEAKER: We just kind of work
20 with the systems that we're allowed to.

21 MS. DAVIS: And the county system to pull
22 deceased voters from the roll seem painfully primitive.
23 Employees pull obituaries from the newspaper and sort
24 through probate records for names matching those on the
25 roll but George Hammerlein says while fraud is a concern



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1 for his office, disenfranchising voters is a bigger one.

2 MR. HAMMERLEIN: We do all we can but, you
3 know, we'd rather err on the side of leaving people on
4 the roll instead of taking them off inadvertently.

5 MS. DAVIS: But could that cautious, better
6 safe than sorry standard sway an election some say will
7 be a close one? Take a look. Texas Watchdog found more
8 than 4,400 registered voters who appear to be deceased.
9 In 2000, George Bush won the presidential election by a
10 mere 537 votes in Florida.

11 MR. HAMMERLEIN: We've never had any
12 evidence there's a concerted attempt at fraud.

13 MS. DAVIS: But there is evidence the state
14 agency in charge of ensuring only eligible voters can
15 vote is not. The state auditor's office conducted this
16 audit of the voter registration system at the Secretary
17 of State's office last November. Auditors identified
18 more than 49,000 registered voters statewide who may
19 have been ineligible to vote. 23,000 may have been
20 deceased. Another 23,000 possible felons. And they
21 found more than 2,300 duplicate records for voters. The
22 auditor did not find any instances in which potentially
23 ineligible voters actually voted but they wrote:
24 Although the Secretary of State's office has processes
25 to identify many ineligible voters and remove them from



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1 the state's voter registration list, improvements can be
2 made.

3 So, almost a year after this audit, we
4 wanted to know if the Secretary of State has made any
5 improvements. No one from that office would talk to us
6 on camera but the State's director of elections says
7 while her office identifies possible ineligible voters,
8 only the county here is authorized to cancel those
9 voters.

10 UNIDENTIFIED SPEAKER: We'd rather err on
11 leaving someone on the roll than taking someone off.

12 MR. SEIBERT: If there's something wrong
13 here, if there's something amiss, this is the worst
14 election to have that happen.

15 MS. DAVIS: And Guidry agrees.

16 MS. GUIDRY: I don't think it's a matter
17 that she would take lightly, so, yeah, I think that she
18 would definitely do all that she could just to make sure
19 things were on the up and up.

20 MS. DAVIS: We sent the information we
21 showed you to the director of elections in Austin. She
22 said her office refers any credible allegation of
23 election fraud to the Attorney General for investigation
24 and she said the cases we presented would be felony
25 violations.



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1 Amy Davis, KPRC, Local 2.

2 UNIDENTIFIED SPEAKER: Well, for more
3 information on how Texas Watchdog found dead voters on
4 the roll --

5 (End of news footage.)

6 MR. HAMMERLEIN: We think, once again,
7 the -- that those two cases -- we can go into their
8 particulars but both of them, we do think if the
9 individual -- in both cases someone did sign in in the
10 county clerk's poll book with those people's names.

11 We do think if there would have been a photo
12 ID requirement that those two individuals probably would
13 have not had the opportunity to sign in and cast those
14 votes. So, if you have any questions on that.

15 The other thing that you have in your file
16 folder are a list of 23 deceased voters, and as you read
17 across the column, you'll see they have a recorded date
18 of death and then after that, you can see where they did
19 register votes after that recorded date of death. And a
20 couple of them are pretty active and voted twice.

21 And then we do have another -- a third case
22 of Janet Sheldon, who is a volunteer deputy registrar
23 that ended up pleading guilty, where she just filled out
24 a bunch of cards. We think it was a class assignment at
25 her college, and she kind of got behind the times and



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1 then I think right before the assignment was due, she
2 filled out a bunch of cards.

3 And some of them were she took current
4 registered voters and were moving them to other places.
5 So, in that case, if someone did -- if she did redirect
6 those voter registration cards to an address that
7 accepted them, then those people could have gone and
8 voted for those individuals.

9 And she did plead guilty to 61 counts of
10 voter fraudulent application fraud. And with that, I'll
11 be glad to take any questions.

12 REPRESENTATIVE DR. ALLEN: These are in one
13 precinct or --

14 MR. HAMMERLEIN: No, ma'am. They were
15 spread out.

16 REPRESENTATIVE DR. ALLEN: They were spread
17 out?

18 MR. HAMMERLEIN: Yes, ma'am, they were
19 spread around the county.

20 CHAIRMAN SMITH: George, you heard the
21 testimony, I assume, in front of the elections committee
22 during the -- relating to Harris County. Were you
23 involved in that?

24 MR. HAMMERLEIN: No, sir, I didn't actually
25 attend that but I'm familiar tangentially with a lot of



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1 it.

2 UNIDENTIFIED SPEAKER: Okay. Well, what I
3 have here in my notes is taken from that interim study.
4 And just sort of address this. You have to some extent
5 but I have here in my notes 381 detailed cases of voter
6 fraud. You mentioned the deputy voter registrar
7 submitted 61 voter registration cards in her own
8 handwriting.

9 I have an indication here, at least it's
10 from the interim committee report, about 24 dead people
11 voting, one that died in 1983 and is still voting 13
12 years later and then something about a state
13 representative who had a church member fill out 175
14 voter registration cards.

15 MR. HAMMERLEIN: Yes, sir. Yeah, that
16 was --

17 UNIDENTIFIED SPEAKER: Address any and all
18 of that to help us understand what you're referring to.

19 MR. HAMMERLEIN: I had just come in -- the
20 Amadi case was already going on when I came in to the
21 voter registration department.

22 That was just a case in Representative
23 Hochberg's Democratic primary where he drew an opponent
24 and that individual, from the best we could tell, just
25 took a church list of particular Nigerian names and just



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1 tried to pack them all into State Representative
2 District 137.

3 And I guess he -- he was working on some
4 bizarre assumption that they were all going to vote for
5 him. He kind of had a flaw in his plan where he forgot
6 to tell them about it evidently because when these
7 people started getting their voter registrations moved,
8 they started calling our office going: What are you --

9 UNIDENTIFIED SPEAKER: Real quickly, can he
10 explain before he gets too far along what are Nigerian
11 names? He said there were Nigerian names.

12 MR. HAMMERLEIN: That was what we were told
13 by the people that came into our office when they
14 started calling us, saying: Hey, why did you move my
15 voter registration?

16 We go: Well, because you have filled out a
17 voter registration application.

18 And they said: If you'd like to challenge
19 it, come on in.

20 They came on in, and we finally realized
21 after about 13 people came in to testify that they were
22 all of Nigerian descent and they all went to a Nigerian
23 church. So, it came from the actual people that came
24 in.

25 UNIDENTIFIED SPEAKER: So, I'm still not



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1 clear on what the allegation is. Are you saying there
2 was a gentleman that was a friend of Scott's that --

3 MR. HAMMERLEIN: No. No. No. He was an
4 opponent in the Democratic primary. And so, what he was
5 doing was -- they were all saying he was of Nigerian
6 descent as well, I guess, you know, recent immigrants
7 but all legal to vote and he was -- his plan was -- I
8 guess he was, you know, not as smart as he thought he
9 was -- was to move them from all around Harris County
10 into 137 into just a few voting locations that he would
11 have access to the cards, that you still had to put the
12 mailing address -- he was changing their mailing
13 addresses and their current address.

14 But, anyway, people became aware of their
15 voter registrations being changed and contacted our
16 office and then came in and actually signed affidavits.

17 The gentleman answered his phone, and the
18 district attorney set up an appointment for him to come
19 down, and he has never been heard of since.

20 UNIDENTIFIED SPEAKER: What about the 24
21 dead people?

22 MR. HAMMERLEIN: Actually, upon examination
23 with the Social Security department, that was the list
24 that you have now of 23. One of those individuals, the
25 Social Security department since realized they had



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1 the -- they had cancelled the spouse inadvertently, then
2 the individual and since then -- both -- unfortunately,
3 both members of that couple are deceased but upon closer
4 examination of bouncing back with the Social Security
5 department, they realized they had inadvertently knocked
6 off one of the people, the wrong individual.

7 UNIDENTIFIED SPEAKER: So, are you saying --
8 is it your testimony here today that with the exception
9 of 1 or 2 of those 24, those are people that are
10 confirmed to have been voted for after they died in
11 Harris County?

12 MR. HAMMERLEIN: Yes, sir.

13 UNIDENTIFIED SPEAKER: The key, Mr.
14 Chairman, is when? I mean, those were all pre HAVA
15 cases, those 23?

16 MR. HAMMERLEIN: Yes, sir.

17 UNIDENTIFIED SPEAKER: I believe they're all
18 pre HAVA, correct?

19 MR. HAMMERLEIN: Yes, sir.

20 UNIDENTIFIED SPEAKER: And what about HAVA
21 would make that case less likely today?

22 MR. HAMMERLEIN: The voter registration --
23 are we referring to the voter registration requirements
24 itself?

25 UNIDENTIFIED SPEAKER: No. No. I'm



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1 referring to the regular updates, death rolls.

2 MR. HAMMERLEIN: Oh, within the team system?

3 UNIDENTIFIED SPEAKER: Yeah, within teams
4 and then the statewide audit.

5 MR. HAMMERLEIN: That would be -- that is a
6 better tool to have than before.

7 UNIDENTIFIED SPEAKER: All right. So, none
8 of those cases, Mr. Chairman, were post HAVA.

9 MR. HAMMERLEIN: But --

10 UNIDENTIFIED SPEAKER: Even though -- and I
11 was going to ask you something else but even though they
12 may have been post HAVA doesn't mean they didn't happen,
13 right?

14 MR. HAMMERLEIN: Right. I mean, you can get
15 with the county clerk and, you know, we -- I think --
16 all those case, I think we found obituaries, put them in
17 there, and the county clerk will certify that they have
18 voted after those obituaries' dates.

19 UNIDENTIFIED SPEAKER: So, there were 20
20 plus voters who you all investigated or someone
21 investigated and found tat they were voted for after
22 they had passed?

23 MR. HAMMERLEIN: Yes.

24 UNIDENTIFIED SPEAKER: Okay. And the reason
25 that, in my mind, is significant is one of the



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1 overwhelming arguments against anything to change has
2 been that that has never -- that doesn't happen.

3 Let me ask you on the Channel 2 News Houston
4 story that ran in October, I guess, of '08, what was the
5 results of those two situations where it was alleged, I
6 guess, that people voted for those who have passed?

7 MR. HAMMERLEIN: Well, in both cases, the
8 Harris County clerk confirmed that people did sign in in
9 the poll book and the amount -- the amount of signatures
10 in the poll book and the amount of votes cast was
11 identical. So, each signature did result in a vote.

12 The first one, Ms. Guidry had the first -- I
13 think it's in your packet. Her first two -- the first
14 two numbers on her Social Security were different on her
15 voter registration application that she had put in
16 versus her actual Social Security number. And so, even
17 if we would have done a Social Security run, that
18 wouldn't have caught it.

19 And then Ms. Hill's name never appeared with
20 any unique identifiers that -- so, there would have
21 never been a unique enough name to have been knocked off
22 because she never a Social Security number.

23 UNIDENTIFIED SPEAKER: But it was -- so that
24 it was established that there were two individuals that
25 did go cast votes in those two individuals' names?



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1 MR. HAMMERLEIN: Right. Evidently, those
2 families thought so and, I mean, you can call the Harris
3 County clerk and they will say people signed in in those
4 poll books for those people --

5 UNIDENTIFIED SPEAKER: Did they sign in --

6 MR. HAMMERLEIN: -- on election day.

7 UNIDENTIFIED SPEAKER: Did they sign in
8 under the assumed or the deceased's name?

9 MR. HAMMERLEIN: Ms. Guidry's name is kind
10 of easier to make out. The Hill is just --

11 UNIDENTIFIED SPEAKER: Kind of a blur?

12 UNIDENTIFIED SPEAKER: Did you rule out
13 mistake there? In that study, did you rule out mistake,
14 somebody signing in in the wrong spot?

15 MR. HAMMERLEIN: Well, it could have been --
16 if it was signed in in the wrong spot, there were still
17 the same amount of votes.

18 UNIDENTIFIED SPEAKER: But did you rule out
19 mistake by poll workers there or did the Channel 2
20 investigation rule out mistake by poll workers there?

21 MR. HAMMERLEIN: No. I mean, I guess, you
22 know --

23 UNIDENTIFIED SPEAKER: Do you know if they
24 ruled out mistake by poll workers there?

25 UNIDENTIFIED SPEAKER: I think the fair



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1 question is -- and I think he's asking a fair question
2 here but it kind of what I was saying earlier --

3 UNIDENTIFIED SPEAKER: I'd like an answer to
4 it. I'll let him finish.

5 UNIDENTIFIED SPEAKER: But I think that
6 that's a fair question. I'm glad you asked it because
7 it's the issue I tried to raise earlier with the
8 gentleman from NYU, which is if in this instance the
9 assumption is a mistake may have been made by someone,
10 which it certainly could have been, I don't feel that's
11 been the assumption we've used throughout the night when
12 we've talked to say the State of Georgia or anyone else
13 about provisional ballots and the number who weren't
14 counted and all.

15 In that instance -- in those instances, I
16 felt the assumption has been that those people were
17 wrongly not counted, whereas, is in instance, if we're
18 going to assume that there was a mistake made, wouldn't
19 that, in all fairness, need to be equalized across --

20 MR. HAMMERLEIN: You're saying the benefit
21 of doubt should be cast the same?

22 UNIDENTIFIED SPEAKER: The same across the
23 board because we don't know the answer on really any of
24 these questions except for some. I guess in some you
25 could prove there was some degree of certainty or at



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1 least within a court of law.

2 What -- what makes Harris County unique that
3 you all would have documented cases of people who have
4 deceased voting? I mean, do we have these cases -- and
5 you're only here from Harris County.

6 MR. HAMMERLEIN: Right.

7 UNIDENTIFIED SPEAKER: Do you know of these
8 in other counties and why, if you don't, not that you
9 should, would it be here?

10 MR. HAMMERLEIN: No. I think it's just
11 mainly a numbers game. If you have X amount, you know,
12 per whatever number are going to try to short circuit
13 the system, when you start to get up to a couple of
14 million people on the roll, then your odds are greater.

15 UNIDENTIFIED SPEAKER: What did -- what was
16 the family's speculation as to how or why or -- someone
17 would have known to vote for these individuals, assuming
18 that's what did occur intentionally? Any thoughts?

19 MR. HAMMERLEIN: Yeah. Our first -- if you
20 think you're kind of shocked, we were shocked. They
21 came and interviewed us on a totally different process,
22 had to do with Acorn.

23 And when I say actually in the video that
24 there was no cases of fraud established, I was actually
25 talking about the Acorn because we had actually had a



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1 pretty good agreement with them and were working with
2 them and their attorney fairly well to ensure that
3 things went in an orderly fashion.

4 So, it's always fascinating to see how
5 things get clipped together. When they aired this, we
6 were stunned because it had nothing to do with Acorn.
7 It had to do with these individuals.

8 So, the first time we ever became aware of
9 it was when the show aired, we did research, contacted
10 the two families and -- you know, to ask them for
11 guidance on documentation, and that's when we kind of
12 found out that their numbers -- one of them had no
13 Social Security and the other one, the number was
14 different.

15 UNIDENTIFIED SPEAKER: So, then what you're
16 telling me is that, obviously, this was post HAVA and
17 even with HAVA, the difficulty that may have created
18 these opportunities wouldn't have been corrected through
19 HAVA?

20 MR. HAMMERLEIN: I think it's a challenge
21 any time you have massive databases, it's just -- it's
22 not a perfect system and, you know, amazingly, I think
23 when there's a financial incentive like with Chase Bank,
24 they can get ATM card guys -- they've never made a
25 mistake on my account, right, but when it comes with



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1 people -- multiple people punching in identity codes,
2 you know, the driver's license, Social Security bureau
3 and then our individuals as well getting good matches,
4 you know, if one person in the chain transposes a
5 number, then --

6 UNIDENTIFIED SPEAKER: Well, I'll leave you
7 with this, and I do think it's extremely fair and
8 appropriate that as long as it's applied evenly, there
9 may have been innocent errors on both of these instances
10 but, again, if we're going to allow that as a
11 possibility, I think that possibility has to be allowed
12 in the case of other provisional ballots -- not other
13 but in provisional ballots and otherwise. Wouldn't you
14 agree with that?

15 MR. HAMMERLEIN: Yes.

16 UNIDENTIFIED SPEAKER: Thank you.

17 CHAIRMAN SMITH: Representative Anchia.

18 REPRESENTATIVE ANCHIA: Thank you.

19 Mr. Hammerlein, I'm always -- I always enjoy
20 the testimony that comes from your office because it
21 usually starts with a big splash and big allegations,
22 then you look into it and, well, maybe it wasn't all it
23 was cracked up to be.

24 And we saw that with the 13 -- 315 cases of
25 ironclad noncitizen voting that we heard about, when we



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1 looked into it, it wasn't 315. It wasn't even 22. Many
2 of the people who were alleged to vote were actually
3 U.S. citizens.

4 And I know you didn't testified to that.
5 That was, I guess, Mr. Bettencourt who testified to
6 that.

7 And then -- and then, you know, we look at
8 these cases, first the pre HAVA cases of 23 -- or was
9 it -- how many?

10 MR. HAMMERLEIN: Yes, sir, 23.

11 REPRESENTATIVE ANCHIA: 23. And what number
12 was testified to in the Senate by Mr. Johnson? Do you
13 recall? Is this a different number?

14 MR. HAMMERLEIN: I believe he --

15 REPRESENTATIVE ANCHIA: I guess it was 24 in
16 the Senate.

17 MR. HAMMERLEIN: Right.

18 REPRESENTATIVE ANCHIA: And you told me then
19 you -- you cross referenced that with Social Security
20 and it dropped down to 23.

21 MR. HAMMERLEIN: Continued correspondence,
22 they admitted they had deleted -- or tagged the wrong
23 person, the wrong spouse.

24 REPRESENTATIVE ANCHIA: There was a clerical
25 error. So, we're down to 23. And then we requested



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1 from your office the list of the 23 and noticed that
2 they were all pre HAVA.

3 Let's talk really quickly about how you deal
4 with death information in your office and how post HAVA
5 the likelihood of dead voters is substantially
6 diminished.

7 So, give me the process that you follow --
8 the sources of information that you get and how you
9 remove dead people from the voter rolls in Harris
10 County.

11 MR. HAMMERLEIN: All right. The --

12 REPRESENTATIVE ANCHIA: Post HAVA.

13 MR. HAMMERLEIN: Yes, sir. The first
14 overriding one will be updates from the Secretary of
15 State, and it's my understanding that they interact with
16 the Social Security death index multiple times a year.

17 Then we have the -- the --

18 REPRESENTATIVE ANCHIA: And how often do you
19 get those reports from the Secretary of State?

20 MR. HAMMERLEIN: Well, it's done kind of on
21 a continual basis.

22 REPRESENTATIVE ANCHIA: Weekly?

23 MR. HAMMERLEIN: Yes, sir. I mean, our
24 systems just kind of magically update from them every
25 night.



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1 REPRESENTATIVE ANCHIA: But it's weekly they
2 send you the updates from the Secretary of State?

3 MR. HAMMERLEIN: Yes, sir.

4 REPRESENTATIVE ANCHIA: Okay. Go ahead.

5 MR. HAMMERLEIN: And then there is the
6 death -- death abstracts from courts, court probates,
7 documents that come from the Harris County office and
8 then the --

9 REPRESENTATIVE ANCHIA: And how regularly do
10 those come? Those come monthly, don't they?

11 MR. HAMMERLEIN: I mean, I think we get
12 those almost weekly. We get batches of them, yes, sir.

13 REPRESENTATIVE ANCHIA: At least monthly.
14 If you get them weekly, that's good. Okay.

15 MR. HAMMERLEIN: And then we do the
16 laborious thing of -- there's a process I inherited and
17 it just kept going because it seems to work somewhat.
18 We go through the obituaries.

19 REPRESENTATIVE ANCHIA: And thank you for
20 doing that, by the way. That's good -- that's good
21 detective work.

22 MR. HAMMERLEIN: And they -- the people look
23 and try to find a positive match as much as possible.
24 And then we send a dear family letter. And I think they
25 have 60 days to respond and if they don't, then we'll



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1 mark them in the deceased column.

2 REPRESENTATIVE ANCHIA: And then you remove
3 them from the rolls, right?

4 MR. HAMMERLEIN: Yes, sir.

5 REPRESENTATIVE ANCHIA: Okay. So, the
6 updates happen pretty regularly post HAVA. And then
7 overlaid on top of that is the state auditor who looks
8 at the statewide database, right? I mean, at another
9 level above the county, you have a state auditor who
10 comes in for HAVA and audits the statewide database for
11 possibly deceased voters; is that not right?

12 MR. HAMMERLEIN: I'm not familiar with the
13 processes above the -- outside the Secretary of State
14 but I'll take your word for it.

15 REPRESENTATIVE ANCHIA: All right. Well, it
16 was in the video that you presented.

17 MR. HAMMERLEIN: I know they did a -- I know
18 they did an analysis of all the team counties is what
19 the Secretary of State -- I mean, the AG's office and
20 the auditor worked out.

21 REPRESENTATIVE ANCHIA: The auditor and the
22 AG. Right. Right. Right. And do you recall in your
23 video how many possibly deceased voters were on the
24 list?

25 MR. HAMMERLEIN: I think they said 44,000,



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1 something like that. That's -- I think upon closer
2 examination, you'll find their analysis didn't include
3 like Harris County, Bexar County. I don't think it
4 included Travis.

5 REPRESENTATIVE ANCHIA: I think it included
6 all of the those. We can call up the Secretary of
7 State.

8 MR. HAMMERLEIN: Right. My understanding,
9 it only included team counties. We're called off line
10 counties, which is --

11 REPRESENTATIVE ANCHIA: Okay. I'm looking
12 at the Secretary of State's office nodding their head
13 that everybody was included.

14 MR. HAMMERLEIN: That was every county?

15 REPRESENTATIVE ANCHIA: It was statewide.
16 So, let's just assume everybody was in. Do you recall
17 how many potential dead voters -- and again it was in
18 the video that you presented -- were removed from the
19 list?

20 MR. HAMMERLEIN: No. I mean, they -- I just
21 know the possible 4400 but, I mean, they would still
22 have to be explored.

23 REPRESENTATIVE ANCHIA: It was 49,000 total.
24 Some of those were possible felons, right?

25 MR. HAMMERLEIN: Right.



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1 REPRESENTATIVE ANCHIA: And then you had
2 possible dead voters that were removed. That was
3 something around -- I'll just split up since it was
4 almost 50,000, 25 and 25.

5 MR. HAMMERLEIN: Right.

6 REPRESENTATIVE ANCHIA: And then do you
7 recall how many of those 49,000 had voted?

8 MR. HAMMERLEIN: I think they said they
9 didn't find any.

10 REPRESENTATIVE ANCHIA: Zero.

11 MR. HAMMERLEIN: Right.

12 REPRESENTATIVE ANCHIA: All right. So,
13 let's -- we talked about the 23 dead voters all pre HAVA
14 and that their system is in place to deal with that.

15 Let's talk really quickly about the -- the
16 Sheldon case and -- and we could also talk about
17 Dashwood case. I know Mr. Johnson testified to that in
18 the Senate.

19 MR. HAMMERLEIN: Yes.

20 REPRESENTATIVE ANCHIA: Both of those relate
21 to voter registration fraud, correct?

22 MR. HAMMERLEIN: Yes, sir.

23 REPRESENTATIVE ANCHIA: And neither of those
24 relate to impersonation at the polls, correct?

25 MR. HAMMERLEIN: No. The -- I guess the



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1 reason I thought they were significant is if it wouldn't
2 have been caught by -- because they were all -- they
3 came all together in the mail or one operator gets a
4 stack and they just see the same handwriting and same
5 signature over and over, that brought their attention to
6 it.

7 So, if it wouldn't have been a case like
8 that, they would have been processed and would have been
9 distributed and those cards would have been gone out
10 into the community and could have been acted upon.

11 REPRESENTATIVE ANCHIA: And are you aware of
12 any correlation between voter registration fraud and in
13 person voter impersonation at the polls, any credible
14 studies?

15 MR. HAMMERLEIN: No, sir, because, I mean,
16 there are no tools to do that that I'm aware of.

17 REPRESENTATIVE ANCHIA: Well, there are
18 studies out there that suggest there's no correlation
19 but I was wondering if you were aware of that?

20 MR. HAMMERLEIN: No, sir.

21 REPRESENTATIVE ANCHIA: So, that is evidence
22 of voter registration fraud but not evidence of voter
23 impersonation at the polls, correct?

24 MR. HAMMERLEIN: Yes, sir.

25 REPRESENTATIVE ANCHIA: Okay. And then the



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1 Hochberg case -- because I probably can't pronounce the
2 other name -- those were also voter registration fraud,
3 correct?

4 MR. HAMMERLEIN: Yes, sir.

5 REPRESENTATIVE ANCHIA: None of them related
6 to in person voter impersonation at the polls, correct?

7 MR. HAMMERLEIN: No.

8 REPRESENTATIVE ANCHIA: Because people tried
9 to go to their regular precinct and they found that they
10 were registered to another precinct, right?

11 MR. HAMMERLEIN: Actually, most of them
12 found out before that -- they found out their voter
13 registration had been changed from their residence, and
14 they called us to say why are you doing this.

15 REPRESENTATIVE ANCHIA: But there were no
16 cases of in person voter fraud there, correct?

17 MR. HAMMERLEIN: Well, no. That one we
18 actually exposed it before the election.

19 REPRESENTATIVE ANCHIA: Okay. And then the
20 Dashwood case, I guess, are you familiar with the
21 Dashwood case?

22 MR. HAMMERLEIN: Yes, sir.

23 REPRESENTATIVE ANCHIA: There were -- there
24 was -- there were 121 voter registration cards requested
25 interestingly from El Paso for some reason --



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1 MR. HAMMERLEIN: Yes.

2 REPRESENTATIVE ANCHIA: -- which is bizarre.

3 MR. HAMMERLEIN: That is bizarre.

4 REPRESENTATIVE ANCHIA: Not a very smart way
5 to do voter registration fraud, and at a false address,
6 correct?

7 MR. HAMMERLEIN: Right, and that's what --
8 our mapping department caught it because they were
9 trying to place things and saying this doesn't -- we
10 can't attach them to a voting district because these
11 addresses don't match any district.

12 REPRESENTATIVE ANCHIA: And that was also
13 voter registration fraud, correct?

14 MR. HAMMERLEIN: Yes, sir.

15 REPRESENTATIVE ANCHIA: And not in person
16 voter fraud.

17 MR. HAMMERLEIN: Right.

18 REPRESENTATIVE ANCHIA: So, let's talk about
19 these two new cases that were articulated. I noticed --
20 what was the number that the Texas Watchdog group, the
21 guy that was really animated in the video, the guy who
22 was trying to sell products --

23 MR. HAMMERLEIN: I think he said he had --
24 interesting because they attacked our office --

25 REPRESENTATIVE ANCHIA: He was just very



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1 animated. I think he's not credible because he alleged
2 4,000 and then ultimately there were 2, right? And in
3 Dallas County, by the way, they alleged 6,000 and found
4 none. So -- so --

5 MR. HAMMERLEIN: Yeah, they attacked -- and
6 they were hard on our office, accusing us of being lacks
7 and --

8 REPRESENTATIVE ANCHIA: Well, I think that's
9 unfair. I think that's unfair.

10 MR. HAMMERLEIN: So, I guess if we're
11 getting attacked from all sides, we're doing okay.

12 REPRESENTATIVE ANCHIA: So, with respect --
13 so, with respect to the Guidry case, I noticed in the
14 packet that you provided us, there is -- there is no
15 photocopy of the signatures on the poll book, right?

16 MR. HAMMERLEIN: Yes.

17 REPRESENTATIVE ANCHIA: Did anybody go back
18 and look at those signatures to determine what they
19 said? You said you saw the Hill signature?

20 MR. HAMMERLEIN: I did. We went up and
21 looked at both of them and --

22 REPRESENTATIVE ANCHIA: But you didn't
23 present that in -- in our documents?

24 MR. HAMMERLEIN: And we didn't get a copy of
25 them from the county clerk. We just wanted to make



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1 sure -- because we saw the story, it was one that
2 actually happened and they went to the county clerk and
3 they pulled out a poll book and started going through
4 it.

5 REPRESENTATIVE ANCHIA: You said on the Hill
6 signature, it was tough to tell what the signature said
7 at all, correct?

8 MR. HAMMERLEIN: Yes, sir.

9 REPRESENTATIVE ANCHIA: And a poll worker --

10 MR. HAMMERLEIN: It was kind of short, could
11 have been Hill.

12 REPRESENTATIVE ANCHIA: Also could not have
13 been Hill, right?

14 MR. HAMMERLEIN: Probably.

15 REPRESENTATIVE ANCHIA: It was very
16 difficult to term is what your testimony is?

17 MR. HAMMERLEIN: Yeah, they weren't getting
18 As in penmanship.

19 REPRESENTATIVE ANCHIA: Okay. Okay. And in
20 the Hill case, did they also rule out the possibility
21 that -- of clerical error by the poll worker? Clearly,
22 the poll worker didn't do a signature match, right? I
23 mean, that's -- that would have been something under
24 current law that they could have done, correct, a
25 signature match?



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1 MR. HAMMERLEIN: Right.

2 REPRESENTATIVE ANCHIA: If the allegation is
3 somebody showed up with somebody else's -- with
4 Mr. Hill's or Ms. Hill's Social Security card --

5 MR. HAMMERLEIN: Right, I mean, if they
6 would have said we want to see your voter registration
7 card, see whether it matches but, to be honest, I've
8 never, ever seen that done for anyone. You just go sign
9 in and just --

10 REPRESENTATIVE ANCHIA: Alternatively, they
11 could have signed up with a driver's license, right?

12 MR. HAMMERLEIN: Right.

13 REPRESENTATIVE ANCHIA: I mean, it's
14 possible?

15 MR. HAMMERLEIN: Sure.

16 REPRESENTATIVE ANCHIA: So, we don't know in
17 that case how they voted, right? And -- is that right?

18 MR. HAMMERLEIN: Yes, sir.

19 REPRESENTATIVE ANCHIA: We don't know -- we
20 don't know if, in fact, somebody came in voting for
21 Mr. Hill, we're not sure of that, correct?

22 MR. HAMMERLEIN: No, I mean --

23 REPRESENTATIVE ANCHIA: Because we can't
24 determine the signature, correct?

25 MR. HAMMERLEIN: That's correct.



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1 REPRESENTATIVE ANCHIA: And we can't tell if
2 they used a voter registration card or a driver's
3 license, correct?

4 MR. HAMMERLEIN: No, sir.

5 REPRESENTATIVE ANCHIA: Okay. In the case
6 of Gloria Guidry, did you have a chance to look at the
7 signature in the poll book?

8 MR. HAMMERLEIN: Yes, sir.

9 REPRESENTATIVE ANCHIA: Okay. And tell me a
10 little bit about that.

11 MR. HAMMERLEIN: That one does represent
12 that person's name a lot closer.

13 REPRESENTATIVE ANCHIA: Okay. Okay. Were
14 there any other Guidrys? Did you take a look to see if
15 there were any other Guidrys in the poll book at that --
16 was that election day or early voting, do you recall?

17 MR. HAMMERLEIN: No, sir, I don't recall. I
18 just remember looking at the sheet of paper.

19 REPRESENTATIVE ANCHIA: Do you recall if
20 there were other --

21 MR. HAMMERLEIN: Yes, sir. Well, there was
22 another one above it.

23 REPRESENTATIVE ANCHIA: Another Guidry above
24 it?

25 MR. HAMMERLEIN: Their name was longer and



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1 then this one below it.

2 REPRESENTATIVE ANCHIA: Was the signature
3 clearly not the one -- the signature for the one above
4 it?

5 MR. HAMMERLEIN: I wouldn't have thought it
6 was the same but, I mean, it could have been if they
7 were devious people.

8 REPRESENTATIVE ANCHIA: Were you able to
9 rule out clerical error in that -- in the Guidry case?

10 MR. HAMMERLEIN: After the fact, it's tough
11 because you say -- I'm just picking a number but it was
12 like the county clerk says there's 102 signatures in the
13 book and 102 votes.

14 You know, we went by and if this person was
15 deceased and they signed in, then that -- and it's her
16 name next to her -- her printed name in the poll book,
17 then that's a problem.

18 REPRESENTATIVE ANCHIA: Was there also a
19 signature in the -- for the Guidry directly above?

20 MR. HAMMERLEIN: Yes, sir.

21 REPRESENTATIVE ANCHIA: So, there -- and was
22 that a Guidry signature?

23 MR. HAMMERLEIN: Yes, sir.

24 REPRESENTATIVE ANCHIA: You're positive of
25 that?



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1 MR. HAMMERLEIN: Yes.

2 REPRESENTATIVE ANCHIA: Okay. And were
3 there any other Guidrys in the -- in the -- that polling
4 location or on that -- on the list?

5 MR. HAMMERLEIN: On that sheet, I don't
6 believe so, sir.

7 REPRESENTATIVE ANCHIA: Okay. Okay. Could
8 you provide copies of the signatures for our office?

9 MR. HAMMERLEIN: Yes, sir.

10 REPRESENTATIVE ANCHIA: I noticed they
11 weren't in here. Thanks for your testimony today.

12 MR. HAMMERLEIN: Sure.

13 CHAIRMAN SMITH: Representative Bonnen --
14 I'm sorry -- Allen. Allen.

15 REPRESENTATIVE DR. ALLEN: I wanted to ask
16 you about this Harris County --

17 MR. HAMMERLEIN: Yes, ma'am.

18 REPRESENTATIVE DR. ALLEN: -- voter deceased
19 list. I like for everybody to -- if you have it in your
20 hands, I'd like for you to look at it, please.

21 This happened over a period of 16 years,
22 counting up to 2009. In 1994, you had one incident. In
23 '95, no incidents. In 1996, you had 7 incidents. In
24 '97, none. In '98, 11. '98 seemed to be a popular
25 year. '99, you had none. 2000, you had 1. 2001, you



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1 had none. '2, '3, '4, '5, '6, 2007, 2008, 2009, you had
2 none.

3 So, that totalled up to 23 deceased voters
4 voting over a period of 16 years from 1994 to 2009 to
5 today. So, you had -- if you take 16 years and you
6 divide it by 23 deceased persons, you come up with an
7 average of 1.7 persons voting per year. Stuff happens.
8 One a year.

9 MR. HAMMERLEIN: Well, I -- I guess we could
10 establish a bottom threshold of potential voter fraud in
11 the legislature that's acceptable but I would think in
12 races like in Pasadena, Texas where they had three in a
13 row where it was either one vote, tied and then back to
14 one vote, that those people would probably think that we
15 use every safeguard possible to make sure we get an
16 accurate roll.

17 REPRESENTATIVE DR. ALLEN: And I agree with
18 that. I simply mean you're averaging one a year. So,
19 it doesn't look as bad as that, and stuff happens.

20 Let me say something else, that if you look
21 in the registry of names there, there are 281 Linda
22 Hills in Texas. 281. Mistakes happen.

23 There's a John Smith and a John Smith, Jr.
24 So, I don't know whether the John Smith signed onto the
25 John Smith, Jr.'s name.



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1 So, clearly, some mistakes could have been
2 made here, and I ask -- purposely asked if these were in
3 one precinct. So, if I was voting and these were spread
4 all over Harris County, the impact of 1 person -- 1.7
5 person's voting in 23 years -- in 16 years, it was not
6 like somebody was trying to get commit voter fraud. I
7 mean, how many elections can you impact with 1.7 votes
8 over 16 years?

9 MR. HAMMERLEIN: Well, once again, I guess
10 it's up to this body to establish the acceptable level
11 of fraudulent votes, and we'll be glad to work with it.

12 REPRESENTATIVE DR. ALLEN: There's no
13 level -- there's no level of fraudulent votes that we
14 will accept. I just wanted you to know that it
15 doesn't --

16 CHAIRMAN SMITH: Representative Bohac.

17 REPRESENTATIVE BOHAC: Welcome to the
18 committee. It is late. I'm going to be quick.

19 Are you familiar with the Progreso
20 Independent School District case that's in front of the
21 Attorney General's office now?

22 MR. HAMMERLEIN: No, sir, I'm not.

23 REPRESENTATIVE BOHAC: Can I explain it to
24 you? And then I'm going to ask you some questions about
25 it.



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1 UNIDENTIFIED SPEAKER: Well, now, that will
2 be a real informed -- real informed response but go
3 ahead.

4 REPRESENTATIVE BOHAC: Well, it's related to
5 what we're testifying about here in general about voter
6 fraud.

7 It involves -- I'm not going to use the
8 people's names, although the names are common knowledge
9 because this is all public data. It just says person
10 A's affidavit alleges that he was approached by person B
11 to vote illegally, using voter registration certificates
12 of three individuals.

13 This person states that he voted with one of
14 the certificate and received \$10 from person A.

15 In another case in this same alleged
16 criminal conduct, it says person C, a poll watcher,
17 states that she observed a person she believed was
18 attempting to vote using another person's identity.

19 In another part of this criminal conduct
20 case, it says person D -- this is all the same case --
21 person D's affidavit alleging that person -- that person
22 E offered her money in exchange for her vote. He also
23 allegedly offered her voter registration certificates in
24 other persons' names to use to vote and take care of her
25 traffic tickets if she assisted in illegal voting.



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1 I'm not making this up.

2 And then finally in this last paragraph here
3 it says person F served as a poll watcher. In her
4 affidavit in the same Progreso Independent School
5 District case, in her affidavit, she claimed that she
6 saw election officials qualifying voters to vote without
7 presenting their certificates or any other form of
8 identification.

9 She also claims that she saw a voter attempt
10 to vote illegally using another person's certificate.

11 Now, being in the position that you are --
12 and I don't know what the outcome of this case is going
13 to be but these are pretty serious allegations, and
14 they're signed affidavits. So, I don't know what the
15 ultimate outcome is going to be but do you think voter
16 ID, if we had voter ID, would help in any of these
17 cases?

18 MR. HAMMERLEIN: Yeah. I mean, this is
19 obviously speculation on my part but from the small
20 amount of information I've got from you, it does seem
21 like it would have added a level of security that's not
22 there now where you can just walk in with an orange card
23 and take it at face value.

24 I mean, if you had to have something to go
25 with it, even if -- even under current law if you just



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1 had to have an additional envelope or something, you
2 know, from a government agency would have added -- would
3 have put a big dent in this program if it is, you know,
4 as it's spelled out.

5 REPRESENTATIVE BOHAC: And, likewise, if
6 there are indeed some few instances, as Dr. Allen
7 stated, there are just a handful of dead people who are
8 voting statewide, a voter ID would also help in those
9 particular cases as well, I would suspect that would be
10 the case because you're verifying the person who is
11 walking in is indeed the person who is voting?

12 MR. HAMMERLEIN: Right.

13 REPRESENTATIVE BOHAC: So -- and I know
14 you're neutral on the bill but it just seems to me that
15 in this discussion that we've had tonight, there's --
16 there's -- I believe there's some compelling reasons why
17 we may want to adopt voter ID as a policy for the State
18 of Texas.

19 And anyway, I appreciate you driving all
20 this way and making us aware of these particular
21 situations.

22 MR. HAMMERLEIN: Thank you.

23 CHAIRMAN SMITH: Representative Bonnen.

24 REPRESENTATIVE BONNEN: On the cases of the
25 voter registration fraud that Representative Anchia



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1 raised, was anyone successfully prosecuted in those
2 cases?

3 MR. HAMMERLEIN: The only one that really
4 had something tangible was the Janice Sheldon case where
5 she pleaded guilty and then one of the other cases, when
6 the district attorney called him, he agreed to come in
7 and then moved --

8 REPRESENTATIVE BONNEN: Never showed up?

9 MR. HAMMERLEIN: Yeah, moved out of town.

10 REPRESENTATIVE BONNEN: Now, I don't know
11 the cases by heart so what about the one where they
12 mailed them all in from El Paso or whatever and then --

13 MR. HAMMERLEIN: I think that was turned
14 over to the El Paso authorities, and we've never heard
15 anything else.

16 REPRESENTATIVE BONNEN: Let me ask you this
17 question: Would it be fair to say that you need to have
18 a voter registration -- you don't have to but
19 wouldn't -- what would be the next step beyond voter
20 registration fraud? Would that be an illegal vote?

21 MR. HAMMERLEIN: You mean the next step from
22 illegal voter registration?

23 REPRESENTATIVE BONNEN: If you successfully
24 illegally register people to vote, then what are you
25 doing? What's next?



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1 MR. HAMMERLEIN: Like -- it, obviously,
2 opens that door that wasn't open before.

3 REPRESENTATIVE BONNEN: Not to put it to you
4 but to me -- and I'm not an election official but
5 wouldn't the logical next step then be to have people to
6 show up to cast votes in the names of the people they
7 illegally registered?

8 MR. HAMMERLEIN: Well, that certainly offers
9 the opportunity.

10 REPRESENTATIVE BONNEN: Okay. So, in all
11 the instances that registration fraud was found, I guess
12 we should assume with the same vigor that every one of
13 those was intended to be an in person voter fraud?

14 MR. HAMMERLEIN: Yeah, it's hard to read
15 intent but, I mean, if -- if properly executed --

16 REPRESENTATIVE BONNEN: Then why else would
17 I do it?

18 MR. HAMMERLEIN: If properly executed, I
19 guess it gives people the opportunity.

20 REPRESENTATIVE BONNEN: Well, let me ask you
21 why some of those cases were not prosecuted because --
22 or you just don't know if they were or not?

23 MR. HAMMERLEIN: Well, I don't think they
24 had enough to -- they couldn't reverse engineer to find
25 the individual.



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1 REPRESENTATIVE BONNEN: It's hard to track
2 them down?

3 MR. HAMMERLEIN: Right.

4 REPRESENTATIVE BONNEN: Okay. Thank you.

5 UNIDENTIFIED SPEAKER: Is there any
6 correlation between voter registration fraud and in
7 person voter fraud?

8 MR. HAMMERLEIN: Not that I'm aware of.

9 UNIDENTIFIED SPEAKER: Okay. In the El Paso
10 case, the Dashwood -- Dashwood was related to El Paso?

11 MR. HAMMERLEIN: Yes, sir. Yes, sir.

12 UNIDENTIFIED SPEAKER: The referral was made
13 to the district attorney in Harris County or to the
14 district attorney in El Paso?

15 MR. HAMMERLEIN: I want to say we gave it
16 to -- well, I know we gave it to the district attorney
17 in Harris County and I think they promptly, doing what
18 good bureaucrats do, shipped it to El Paso County.

19 UNIDENTIFIED SPEAKER: And you don't know
20 the outcome one way or the other, whether they
21 prosecuted anything or not?

22 MR. HAMMERLEIN: No, sir, not to my
23 knowledge.

24 UNIDENTIFIED SPEAKER: So, we don't know for
25 a fact that they dropped it or we don't know for a fact



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1 if they prosecuted it?

2 MR. HAMMERLEIN: No, sir. Our office has
3 never been contacted back.

4 UNIDENTIFIED SPEAKER: And did you guys ever
5 follow up?

6 MR. HAMMERLEIN: I haven't called out there
7 and seen what's going on.

8 UNIDENTIFIED SPEAKER: Okay. And you're
9 testifying on the bill today, correct, not for it?

10 MR. HAMMERLEIN: Yes, sir. We'll be happy
11 to execute whatever election law you pass.

12 UNIDENTIFIED SPEAKER: Okay. On the cases
13 that you received earlier that I guess Representative
14 Bohac was talking about earlier, are you familiar with
15 those cases?

16 MR. HAMMERLEIN: No, sir.

17 UNIDENTIFIED SPEAKER: Okay. Do you know if
18 they've -- if any of those affidavits have been cross
19 examined or not?

20 MR. HAMMERLEIN: No, sir. I --

21 UNIDENTIFIED SPEAKER: Do you know the
22 conflict histories of any of the affiants in those
23 affidavits?

24 MR. HAMMERLEIN: No, sir. I have completely
25 uninformed speculation on this.



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1 UNIDENTIFIED SPEAKER: Okay. Thank you.

2 MR. HAMMERLEIN: Yes, sir.

3 CHAIRMAN SMITH: Any other questions from
4 the members of the committee? Anybody? Okay.

5 REPRESENTATIVE DR. ALLEN: Could you tell me
6 how many DPS offices there are in Harris County to
7 obtain IDs?

8 MR. HAMMERLEIN: No, ma'am.

9 CHAIRMAN SMITH: I'm being told that we'll
10 have DPS here tomorrow.

11 REPRESENTATIVE DR. ALLEN: Okay. We'll have
12 DPS here tomorrow. I'll ask the question tomorrow.

13 Thank you.

14 CHAIRMAN SMITH: Representative Veasey.

15 REPRESENTATIVE VEASEY: What's your
16 position?

17 MR. HAMMERLEIN: I'm the director of voter
18 registration for Harris County.

19 REPRESENTATIVE VEASEY: Is that a partisan
20 position?

21 MR. HAMMERLEIN: No.

22 REPRESENTATIVE VEASEY: Are you a -- are you
23 a Democrat or a Republican when you're not working?

24 MR. HAMMERLEIN: I'm a Houstonian.

25 REPRESENTATIVE VEASEY: Okay. But I mean,



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1 what do you consider yourself? Because what I'm trying
2 to establish here and what I don't understand is that
3 you testified that you will come in as a resource
4 witness; is that correct?

5 MR. HAMMERLEIN: Yes, sir.

6 REPRESENTATIVE VEASEY: And that you're
7 neutral on the bill. So, where is the video that also
8 shows all of the voters that were -- that had tried to
9 register to vote legally in Harris County for this past
10 election cycle but that they were denied their right to
11 exercise --

12 MR. HAMMERLEIN: I'm not aware of any.
13 First, one, I wasn't asked to produce that and, two, I'm
14 unaware of any.

15 REPRESENTATIVE VEASEY: Yeah, but I'm -- if
16 you're a resource witness and you're here to --

17 CHAIRMAN SMITH: No. That wouldn't be
18 accurate, Marc. Certain people were asked by one side
19 to testify to certain issues and other people were asked
20 by the other side to testify. He's not technically a
21 resource witness as is the Secretary of State.

22 REPRESENTATIVE VEASEY: Well, it sounds like
23 that he testified on behalf of the bill and -- and, you
24 know, in Harris County, I guess more than 13,000 voter
25 registration applicant hadn't been processed and this --



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1 MR. HAMMERLEIN: That's a nice -- that's a
2 nice thing to repeat. When we got over 110,000 voter
3 registration applications on cut off and the two days
4 after cut off, yeah, obviously, they're not effective
5 for 30 days, and we can -- so that when early voting
6 starts within a couple of weeks after cut off, when
7 people say do you still have you haven't produced -- or
8 processed, well, absolutely we haven't processed them
9 but they wouldn't be eligible to vote anyway during
10 early voting because they turned them in on the cut off
11 day.

12 So, no one was denied the right to vote.

13 REPRESENTATIVE VEASEY: And -- but -- and
14 see, the problem that I have is that the emphasis, once
15 again -- and I pointed this out earlier for the people
16 that actually came to speak on behalf of the voter ID
17 bill, the emphasis is always on, you know, the so-called
18 voter fraud or the so-called voter impersonation that we
19 still haven't seen any evidence of.

20 And what I'm asking you is that, you know,
21 you -- why is there not the same level of intensity
22 about all these voters that tried to register to vote in
23 Harris County that were denied the right to do so and
24 their applications were not processed? Did you --

25 MR. HAMMERLEIN: I just explained to you.



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1 I'll be glad to explain again if you're having a hard
2 time with it.

3 REPRESENTATIVE VEASEY: There was a story
4 that you put on the air a second ago that you just --

5 MR. HAMMERLEIN: Right.

6 REPRESENTATIVE VEASEY: -- put on video that
7 you put on the projector and there was another story
8 that showed how these applicants weren't being
9 processed, and what I'm saying is that the emphasis
10 seems to be on, you know, voter impersonation or
11 so-called voter impersonation but I don't see the same
12 side talking about, you know, the people that have been
13 disenfranchised.

14 MR. HAMMERLEIN: I'm not aware of anyone
15 that's been disenfranchised. If you're aware of any
16 names that we can investigate --

17 REPRESENTATIVE VEASEY: Why did the
18 gentleman that was previously elected to oversee your
19 office, why did he resign shortly after being reelected,
20 after going out there campaigning, spending money?

21 MR. HAMMERLEIN: Actually, he didn't
22 campaign and he didn't spend any money. I think C&Es
23 are available, and you can go check those with the Texas
24 Ethics Commission.

25 REPRESENTATIVE VEASEY: But he had to put



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1 his name on the ballot.

2 MR. HAMMERLEIN: He did about a year out
3 from the election, and then his personal situations
4 changed, and he got a job offer.

5 REPRESENTATIVE VEASEY: Why is it alleged
6 that he --

7 MR. HAMMERLEIN: Well, I mean, people can
8 allege anything, can't they?

9 REPRESENTATIVE VEASEY: According to what
10 you know as a Houstonian, as you stated you were
11 earlier --

12 MR. HAMMERLEIN: Yes.

13 REPRESENTATIVE VEASEY: -- and from the
14 articles that you've read in the HOUSTON CHRONICLE and
15 that you've seen on local media reports in Harris
16 County, tell me, to your best recollection, why is it
17 thought that your previous boss resigned?

18 UNIDENTIFIED SPEAKER: What does it have to
19 do with voter ID?

20 REPRESENTATIVE VEASEY: Well, because he
21 came and he showed this video.

22 UNIDENTIFIED SPEAKER: He showed a video
23 produced by Channel 2 News in Houston, Texas.

24 REPRESENTATIVE VEASEY: Okay. I know but
25 I'm trying to ask -- I want to establish -- I want to



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1 see your office put some emphasis on the other side.

2 MR. HAMMERLEIN: Well, I encourage you to
3 come to our office --

4 REPRESENTATIVE VEASEY: That's the point
5 that we're trying to make.

6 MR. HAMMERLEIN: Well, I encourage you to
7 come to our office any day and you'll see the emphasis
8 we put on voter registration eight hours a day, five
9 days a week on processing hundreds of thousands of voter
10 registration cards.

11 REPRESENTATIVE VEASEY: But you're not going
12 to tell me why your boss resigned -- why he allegedly
13 resigned?

14 MR. HAMMERLEIN: Well, I don't think he
15 allegedly resigned. I think he actually did resign but
16 he resigned to take a job in the private sector, which
17 he has now, and you can give him a call and ask him.

18 CHAIRMAN SMITH: Just a question, there
19 was -- Mr. Representative Anchia was making the point
20 that he doesn't believe there's any correlation between
21 impersonation fraud and voter registration fraud. Now,
22 unless I'm missing something, it's fair to presume that
23 when someone engages in voter registration fraud that
24 they do so with the intent to ultimately follow that up
25 with casting a fraudulent vote. Is that reasonable?



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1 MR. HAMMERLEIN: Yes, sir. I mean, that
2 does seem like that would be the point of the drill.

3 CHAIRMAN SMITH: Okay. And if that's the
4 case, then the only question is is that fraud going to
5 occur by way of absentee ballot or by way of voter
6 impersonation, right? Those are the two possibilities?

7 MR. HAMMERLEIN: Yes, sir.

8 CHAIRMAN SMITH: One of which --

9 UNIDENTIFIED SPEAKER: Or both.

10 CHAIRMAN SMITH: -- has a longer paper trail
11 established, that being absentee ballot, one of which
12 has a shorter paper trail. So, in terms of making
13 assumptions, if we know people are in the public are out
14 there committing fraud with regard to registering
15 voters, there's certainly no reason to assume that they
16 ultimately would have cast an absentee ballot over
17 having voted in person. You can make either assumption,
18 is that the agreement?

19 MR. HAMMERLEIN: Yes, sir.

20 CHAIRMAN SMITH: And so, you know, I don't
21 know that there's a correlation between that and either
22 type of potential fraud that would occur at that point
23 but I do think that to the extent that there is a lot of
24 evidence in front of this committee of voter
25 registration fraud, that is additional evidence of voter



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1 fraud of one type or another. And, again, either side
2 can assume what they want to about which would have been
3 more likely to occur.

4 UNIDENTIFIED SPEAKER: Let me ask you this
5 on voter registration fraud: Why, in your professional
6 opinion, is -- what are you again?

7 MR. HAMMERLEIN: Director of voter
8 registration.

9 UNIDENTIFIED SPEAKER: Okay. Why would
10 Dennis Bond in his argument say choose to fraudulently
11 register 500 or 30 or 18, pick the number of voters in
12 Brazoria or -- forget it -- Harris County, I'm going to
13 move up there and do that. Why would I do that.

14 MR. HAMMERLEIN: One would be if you're a
15 paid volunteer of an organization and you're either paid
16 by the card, which you're not supposed to be, but we
17 know they are, and then there's -- or they get a quota.
18 So, that's a financial incentive.

19 And then I guess there would always be the
20 incentive to actually affect the outcome of an election.

21 UNIDENTIFIED SPEAKER: Which both would have
22 the same impact, though, wouldn't they, because even if
23 I'm getting paid, if I'm actually -- and I understand
24 the logic there, I'm doing it not because I even really
25 want to change the outcome of the election, I want to --



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1 and I'm not casting a net of accusation but I am
2 watching the news, which could be totally inaccurate for
3 all I know, the Acorn situation that was reported -- I
4 don't know if it's accurate -- that was what was
5 occurring that certain people needed to meet a certain
6 number of registrants, so they simply did that
7 fraudulently.

8 Those individuals may have not even cared if
9 someone showed up to vote but -- but what other reason
10 would there be? That would be it, wouldn't there?

11 MR. HAMMERLEIN: I would just think it would
12 be financial and political.

13 UNIDENTIFIED SPEAKER: And that would be it,
14 though?

15 MR. HAMMERLEIN: Those are the only two I
16 can think of.

17 UNIDENTIFIED SPEAKER: And wouldn't -- even
18 if you're being paid -- and let's say Dennis Bond is
19 being paid by the Republican party of Texas to register
20 people to vote and I'm behind and so, I produce
21 fraudulent documents, wouldn't still then, though, the
22 whole activity, whether I behaved on my own within that
23 activity fraudulently, isn't the ultimate outcome of
24 that activity to then get people to vote to have more
25 ballots cast, correct?



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1 MR. HAMMERLEIN: Seems like that would be
2 the logic.

3 UNIDENTIFIED SPEAKER: Thank you.

4 CHAIRMAN SMITH: Representative Anchia.

5 REPRESENTATIVE ANCHIA: Yeah, Mr. Chairman,
6 just responding to the premise that you laid out, I
7 think the most constructive example is the one that Mr.
8 Hammerlein presented in the Sedgwick case.

9 What was the intent of Ms. Sedgwick in
10 engaging in voter registration fraud? This is the one
11 case that we actually have prosecuted that he's
12 testified to. What was the intent? Was it to commit
13 voter fraud or what you testified to today?

14 MR. HAMMERLEIN: Well, her testimony was
15 that she was behind in a college extra credit program.

16 REPRESENTATIVE ANCHIA: And she made them
17 up, she went through the phone book?

18 MR. HAMMERLEIN: Well, she made some of them
19 up and I think 25 of them were actually current
20 registered voters that she moved to new locations for
21 some reason.

22 REPRESENTATIVE ANCHIA: Okay. Was her
23 intent to get all of those people that she either made
24 up or current registered voters to vote in the election?
25 Did she testify to that?



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1 MR. HAMMERLEIN: No. She said she was doing
2 it just merely because of the academic requirement.

3 REPRESENTATIVE ANCHIA: And I would submit,
4 Mr. Chairman, that there are academic studies on this
5 that I'd like to present to the -- to the committee,
6 including from the EAC, a draft report from the EAC that
7 I have here. I'll get you the final report. That
8 suggested there's absolutely zero correlation between
9 voter registration fraud and voter fraud.

10 And that's -- that's not a hypothetical. We
11 have the one actual case that Mr. Hammerlein testified
12 to that has been prosecuted.

13 And then I'm happy to present -- because I
14 think the premise is incorrect to suggest that voter
15 registration fraud occurs for the purposes of --

16 CHAIRMAN SMITH: You're not saying now that
17 there's zero correlation between voter registration
18 fraud and impersonation fraud, you're saying between
19 voter registration fraud and any kind of fraud?

20 REPRESENTATIVE ANCHIA: No. Let me clarify
21 that to suggest in person voting.

22 CHAIRMAN SMITH: Okay.

23 UNIDENTIFIED SPEAKER: And real quick, I
24 didn't make the suggestion that that's what it is. I
25 made the suggestion that I find it hard to believe that



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1 there would be no next step intended.

2 CHAIRMAN SMITH: So, Representative Anchia,
3 if you're not denying that there's a correlation between
4 voter registration fraud and voter fraud but you are
5 denying that there is a correlation between voter
6 registration fraud and voter impersonation fraud, then
7 I'm presuming that you believe there's a correlation
8 between voter registration fraud and absentee ballot
9 fraud?

10 REPRESENTATIVE ANCHIA: I -- no, I don't
11 believe that but I believe there's a possibility. I
12 don't believe that there is a correlation. I think
13 there may be a possibility.

14 CHAIRMAN SMITH: Okay.

15 Yes, Representative Bohac.

16 REPRESENTATIVE BOHAC: George, one more
17 quick question. You guys are the largest county in
18 Texas. Have you all -- in your -- in your time as the
19 voter registration director -- is that the right term,
20 something like that?

21 MR. HAMMERLEIN: Director of voter
22 registration.

23 REPRESENTATIVE BOHAC: Director of voter
24 registration. Have you ever seen a pattern of -- of
25 fraudulent voter registration from any group, any



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1 planned pattern of voter registration fraud where there
2 were names taken out of phone books or like we -- like
3 we heard in the past election cycle where there were
4 names made up?

5 MR. HAMMERLEIN: Well --

6 REPRESENTATIVE BOHAC: Have you ever seen
7 any systematic progression of that in your term?

8 MR. HAMMERLEIN: I think the main -- the
9 main thing we did see in the last election that some
10 organizations under pressure for maybe financial
11 reasons, they -- you know, the same person would be
12 registered 10 times by the same individual on the same
13 day.

14 Of course, they're turned in in a big
15 bundle. You know, they're hoping you don't catch them
16 and -- but, you know, our experience -- because we don't
17 really have systems to verify. I mean, it's just --
18 with us, it's more sloppy work or inaccurate cards, then
19 we can -- because we don't have a little investigative
20 team in us. We take them at face value and type them in
21 a computer, and we have a mapping program and they
22 either catch or they don't, and if they give us a
23 number, it will match hopefully with the Texas Secretary
24 of State or Social Security but if they mark both that
25 they have neither, they're automatically on the roll.



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1 So, there is no way to verify those people
2 ever, and if they say they're over 65. So, you can come
3 in, check I have no unique number identifiers, I'm over
4 65, now send me my ballot by mail and you'll be good to
5 go forever.

6 CHAIRMAN SMITH: Just in case there's
7 anybody on the committee and anybody other than our last
8 witness who cares, he is about 18 minutes over the
9 allotted time.

10 UNIDENTIFIED SPEAKER: I'm fine.

11 UNIDENTIFIED SPEAKER: Just real quick and
12 here's my final question, so, if you check that you
13 don't have either, either the last four digits of the
14 Social or driver's license, you're automatically
15 registered in your office?

16 MR. HAMMERLEIN: Yes, sir, under state
17 elections guidance -- I mean, that's the guidance we
18 get, yes.

19 UNIDENTIFIED SPEAKER: So, everyone is
20 registered to vote regardless of whether or not they can
21 produce a four digit code --

22 MR. HAMMERLEIN: Right.

23 UNIDENTIFIED SPEAKER: -- or a driver's
24 license number?

25 MR. HAMMERLEIN: And at current, we have



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1 about 130,000 registered voters with no unique
2 identifiers.

3 UNIDENTIFIED SPEAKER: Out of 1.9 million
4 registered voters?

5 MR. HAMMERLEIN: Approximately 1.9.

6 UNIDENTIFIED SPEAKER: So, about 8 percent
7 of your registered voter database in this late hour that
8 there's nothing to tie that individual with a -- the
9 last four digits of their Social or driver's license
10 number?

11 MR. HAMMERLEIN: No.

12 UNIDENTIFIED SPEAKER: Okay. Thank you.

13 CHAIRMAN SMITH: Any other questions,
14 members?

15 Thank you very much.

16 Representative Helfin.

17 REPRESENTATIVE HELFIN: I'm sorry. Just
18 woke up.

19 If -- if the bill that's proposed was
20 adopted, would that cure that problem?

21 MR. HAMMERLEIN: I -- I suppose it would add
22 an additional layer of security when people come into
23 the polls and they'd have to show identity.

24 REPRESENTATIVE HELFIN: But as far as -- as
25 far as the registration process, this bill does nothing



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1 to address that?

2 MR. HAMMERLEIN: No, sir, I'm not aware of
3 anything that it does to the registration process.

4 REPRESENTATIVE HELFIN: Okay. Thank you.

5 CHAIRMAN SMITH: Any other questions,
6 members?

7 Thank you, Mr. Hammerlein.

8 At this time --

9 UNIDENTIFIED SPEAKER: Mr. Chairman?

10 CHAIRMAN SMITH: Yes.

11 UNIDENTIFIED SPEAKER: I wanted to ask you
12 one more thing. I think it will be a lot easier to
13 answer than why his boss quit his job but the
14 information that I read earlier about John Fund, I was
15 wondering if -- how I could get that submitted to the
16 record or could I just ask that it be submitted into
17 the --

18 CHAIRMAN SMITH: I don't think there is a
19 record.

20 UNIDENTIFIED SPEAKER: Okay. I didn't know
21 if he was keeping the --

22 CHAIRMAN SMITH: No.

23 UNIDENTIFIED SPEAKER: Okay.

24 CHAIRMAN SMITH: But you're welcome to
25 provide it to the members of the committee.



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1 UNIDENTIFIED SPEAKER: Okay. Thank you.

2 CHAIRMAN SMITH: Yes?

3 UNIDENTIFIED SPEAKER: I think if something
4 like that is going to be done, then Mr. Fund should be
5 contacted and let him give a response to it. After all,
6 you know, he was -- he was kept late so that he didn't
7 have time to have -- be questioned, and I don't think
8 it's appropriate to enter something now that he's gone.

9 CHAIRMAN SMITH: Well, we're not -- this is
10 not a court of law. We're not entering something. He's
11 just giving us a copy, and if anybody wishes to
12 contact --

13 UNIDENTIFIED SPEAKER: I'm going to put a
14 copy in the filing cabinet in my office.

15 CHAIRMAN SMITH: Anybody else? Any other
16 questions, comments?

17 At this time the Chair calls Mr. Toby Moore.
18 Oh, I'm sorry, you're not him.

19 UNIDENTIFIED SPEAKER: Mr. Chairman?

20 (Inaudible)

21 UNIDENTIFIED SPEAKER: Happy birthday.

22 UNIDENTIFIED SPEAKER: Mr. Chairman, just
23 for the record, Mr. Moore is from North Carolina and a
24 graduate of the University of North Carolina, Chapel
25 Hill, and I know he's been here all night instead of



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1 watching the game.

2 UNIDENTIFIED SPEAKER: Who won?

3 UNIDENTIFIED SPEAKER: I don't know the
4 answer to that and I hope you have it on TVO.

5 UNIDENTIFIED SPEAKER: I was able to watch
6 it in the back.

7 CHAIRMAN SMITH: Okay. All right. Well,
8 thank you for -- for agreeing to spend the evening with
9 us instead of watching your alma mater play in the
10 national championship. That's a huge sacrifice.

11 UNIDENTIFIED SPEAKER: When I chose this
12 night for the committee, you can tell I'm not a college
13 basketball fan. It's a nice reminder this is a football
14 state.

15 CHAIRMAN SMITH: Would you please state your
16 name and who you represent for the record.

17 MR. MOORE: My name is Toby Moore, project
18 director and elections research with Research Triangle
19 Institute. I'm appearing on my own behalf, my own
20 capacity.

21 CHAIRMAN SMITH: Thank you.

22 MR. MOORE: I will try to be brief. I've
23 given you my written testimony. I think what the -- in
24 the interest of time, I'll tell you the three areas that
25 I thought I could be of most service to the committee



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1 and kind of go over very quickly some of the highlights
2 of what my written testimony is and then just turn to
3 questions because much of what -- some of what I'm
4 testifying has been covered in -- by other witnesses.

5 My background is I was at the Justice
6 Department, was geographer of the Justice Department in
7 the voting section from 2000 to 2006, and then for a
8 little more than a year was project manager for the
9 Carter-Baker Commission on Election Reform at the
10 American University, where I designed and implemented a
11 survey research project on voter ID that --

12 UNIDENTIFIED SPEAKER: Excuse me. What did
13 you do at the Justice Department from --

14 MR. MOORE: I was geographer, a
15 redistricting expert.

16 And while at American, I designed and
17 implemented a survey research project on voter ID.

18 As it happens, in conjunction with a survey
19 research firm based here in Austin called Mustats, and
20 those results may be of interest to you.

21 The three areas that I think I can be of
22 most service, the -- to try to give you as an objective
23 a survey of the current research in the field as I can,
24 I know that you talked about some of that with Justin
25 and other witnesses about the impact on voter -- voter



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1 ID on turnout and some of these other research projects.

2 Second, I think I can be of help in trying
3 to relate to you the challenges that you're going to
4 face in getting preclearance, whether you go through the
5 DOJ or through the DC court.

6 And finally, if it's of interest, I can more
7 fully describe the better ID proposal made by the
8 Carter-Baker Commission.

9 The research on impact of voter ID is not
10 what it should be. I think the research community has
11 let down policy makers.

12 It was apparent in the Crawford Marion
13 decision in the Supreme Court and lower court's
14 frustration with the research community and the lack of
15 reliable studies.

16 Just briefly, because I know you've gone
17 over this already, two of the -- two of the methods to
18 try to get at this impact of voter ID were database
19 matches, which I think most people have moved away from
20 as unsatisfactory and which I think overstated the
21 impact of voter ID, and I think people are now turning
22 away from the modelling of turnout.

23 There's a new paper by (Inaudible) and
24 Robert Ericson that I think is well worth your looking
25 at that takes the bulk of the turnout studies, those



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1 which found an impact and those which did not and I
2 think makes a pretty good argument for the fact that we
3 just lack the data and tools to be able to make good
4 inferences about the impact of these laws on turnout,
5 and that covers both things like the AC funded survey, a
6 very sophisticated study by Alvarez and Katz, the
7 Muhlhausen survey, all of these are well worth reading.

8 Where I think we are is that if we're going
9 to get at this question of who doesn't have ID, it's
10 probably going to be -- need to be done by sophisticated
11 and well funded surveys.

12 We don't have the type of survey that we
13 should have. I think the best thing we have is actually
14 the one that I did at -- or started at least at AU with
15 Carter-Baker.

16 That survey found that in three states that
17 approximately 1.2 percent of registered voters lacked
18 IDs. It was very low in Indiana where they already had
19 an ID law and had made great effort to get ID out. It
20 went up to about 4 percent in Maryland where it was not
21 a large issue and they had a poor minority community.

22 But some of the things found in the study I
23 think are worth pointing out.

24 African Americans were more than four times
25 more likely than whites to lack photo ID. There was not



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1 enough of a Hispanic sample to really make any
2 inferences but Hispanics, and we know almost nothing
3 about ID ownership with -- among Hispanics.

4 Interestingly, women made up nearly all of
5 those who did not have photo ID, which was a surprise to
6 everybody but nearly everyone who did not have a photo
7 ID was a woman.

8 Nearly all of those who lacked ID were
9 Democrats and 88 percent of those without photo ID had
10 household incomes below \$25,000 a year.

11 Now, these are registered voters. So, the
12 pool of people who are eligible voters but not
13 registered, I think we can pretty safely assume would
14 have somewhat higher rates of lacking photo ID.

15 And the really striking statistic about
16 women is doubly important because women, of course, go
17 through name changes that men don't typically go through
18 and face an additional obstacle and problems with
19 getting their documentation.

20 Applying the study at AU to Texas, I came up
21 with a very rough estimate that somewhere between 150,
22 162,000 and 400,000 registered voters or perhaps higher
23 is this pool of registered voters in Texas who don't
24 have ID, and it could be a good bit higher because of
25 our lack of knowledge about ID ownership among Hispanic



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1 citizens.

2 I think that's a conservative estimate but
3 the key, I think, is that there is a body of some
4 significant size that doesn't have a photo ID.

5 UNIDENTIFIED SPEAKER: And what percentage
6 of -- I'm sorry, I'm not supposed to ask questions.

7 MR. MOORE: I'm just trying to move through
8 this quickly.

9 The lack of knowledge in the research
10 community is really not Texas' problem. Texas' problem
11 is the fact that the burden under Section 5 of the
12 Voting Rights Act is on the state to prove to the
13 Department of Justice or the DC court that their change
14 in law will not deny or bridge the right to vote on
15 account of race, color or membership.

16 Mr. Chairman, I was actually pleased to hear
17 your skepticism of the Bush administration's stewardship
18 of the civil rights division and the allegations of
19 politicalization.

20 CHAIRMAN SMITH: I said some have alleged
21 that. I wasn't taking a personal position but saying
22 that some people would feel that way.

23 MR. MOORE: I think the AG's report that
24 came out very recently kind of makes it hard to avoid
25 that but the point I think being is that I don't think



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1 that the Obama administration will necessarily see the
2 pre clearance of the Georgia laws in 2005 and 2006 as is
3 much of a precedent as it might in other circumstances.

4 So, I'm not sure that you're going to get
5 much comfort from that and also the analysis under
6 Section 5 of the Voting Rights Act is very different
7 from the constitutional claims that were presented in
8 the Indiana case.

9 So, I think it's going to be very
10 interesting to see how the Justice Department handles
11 any ID law that comes out of Texas because I think it
12 can be argued that there is -- they have not really had
13 a clean shot at it yet. I don't know. And that's -- my
14 opinion is that it's -- that there's not going to be as
15 much of a precedent as there would have been had the
16 allegations of politicalization not surfaced but that's
17 debatable.

18 What you're going to be expected, I think,
19 to show under Section 5 or to the DC court is -- and
20 from my reading of the bill, it seems to be a little
21 less developed than what came out of Georgia in 2006 or
22 what the Indian law was.

23 The law itself doesn't seem to address a lot
24 of the points that I think the Justice Department is
25 going to look for.



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1 I think the Justice Department is going to
2 expect Texas to have some knowledge of the number and
3 demographic makeup of affected voters. We can talk a
4 little bit about exactly who those would be given the
5 smaller change in your law than in some of the other
6 laws.

7 Detailed and rough under public education
8 programs, I think the idea of delaying the law a cycle
9 or two to make -- have those take effect is a good one
10 and one that would be looked favorably upon.

11 Poll worker training is something that has
12 to be addressed specifically. It's not something that
13 can be assumed to be done under existing structures.

14 There's evidence now -- the (Inaudible)
15 study that I think Representative Anchia has mentioned,
16 which found that poll workers are not applying ID laws
17 in an equitable manner.

18 And so, I think looking at -- having
19 something in the statute -- having something that, you
20 know, addresses that question is going to be important.

21 Programs to distribute required IDs, I do
22 think that the current provision in the Senate Bill for
23 free ID is inadequate compared to what other states have
24 done. I think it's much stronger just to give everybody
25 a free photo ID and the state absorb that cost.



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1 Evidence of voter impersonation problems, I
2 think there's been a lot of attention paid to trying to
3 build that record.

4 And, finally, a detailed discussion of why
5 less retrogressive alternatives, including use of
6 affidavit fail-safes and provisional ballots were not
7 adopted. I think those were all kind of things that the
8 analysts in the Justice Department are going to go
9 through piece by piece.

10 CHAIRMAN SMITH: Take your time. You're the
11 last one. Nobody is waiting on you. I don't want to --
12 don't worry about the clock.

13 MR. MOORE: The -- and much of this has to
14 do with the cost, and the cost is going to be
15 considerable to the state.

16 Indiana, when considering this law,
17 estimated that providing free ID would cost the state
18 more than \$700,000 annually in lost revenue and
19 additional expenses.

20 We've heard about Georgia's significant
21 investment in public education that they did after their
22 first law was rejected. I think those are all things
23 the Justice Department is going to be expecting.

24 And, finally, as an additional cost, the
25 cost to do -- to get this evidence together, submit it



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1 to the Court is going to be -- submit it to the Justice
2 Department is going to be expensive. If you take it to
3 the DC court and defend it, it's going to be a more
4 drawn out and more expensive charge. You'll have to pay
5 more lawyers.

6 CHAIRMAN SMITH: When you say drawn out, do
7 you mean more timely?

8 MR. MOORE: Yeah, it's going to take more
9 time to get it through the DC court. It's a three-judge
10 panel. You'd have to take -- you know, it's basically a
11 mini trial, and they'll put it on the rocket docket and
12 they'll move it through but it's still going to be more.

13 UNIDENTIFIED SPEAKER: How long do you
14 think -- how much more in terms of time in the DC?
15 That's my understanding where it's probably going.

16 MR. MOORE: Right. If it went to the DC
17 court, I mean (Inaudible) could give you a better
18 estimate of that but it's, you know, six to nine months,
19 I would think and it's going to be much more expensive.
20 It's a more involved thing.

21 UNIDENTIFIED SPEAKER: And then after that,
22 you get the litigation, after you get the pre clearance,
23 if you get it? And I'm asking the question because I'm
24 giving you more time.

25 MR. MOORE: No, that's all right. I'm



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1 just -- I mean, I think the conventional wisdom among
2 Section 5 states is to avoid DC court if at all possible
3 and, obviously, it's an alternative that states take up.

4 I mean, we did the Georgia v. Ashcroft case
5 that was tried before the DC court and it was not taken
6 to the Bush administration Justice Department but that
7 is certainly an option and it's one that states avail
8 themselves of.

9 It would be strange, I think, to do it on a
10 change in election law rather than a redistricting case
11 but it certainly can be done.

12 And, finally, the Carter-Baker law --
13 proposal, which I think has been talked about and I'll
14 be glad to answer any questions about it. I don't speak
15 for the Commission any longer but was certainly involved
16 with trying to implement and explain their
17 recommendation, and it's a -- it's a little more
18 complicated than I think the advocates on either side
19 try to argue for.

20 Just to wrap up, I'll say that the
21 current -- the debate over the last four or five years
22 since I became involve in it has really been frustrating
23 because it hasn't moved from these polarized extremes in
24 which there's either an ID law or there's not an ID law.

25 And we talk about laws in Georgia and



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1 Indiana and Texas and Arizona as if they were an ID law
2 or not, and these are complicated laws, and they have a
3 lot of nuance, Florida's, for instance, and there's a --
4 there's ample room for -- for finding compromise in the
5 middle, for finding provisions that address fears of
6 fraud but also that take care of the -- I think all
7 agree the very legitimate fears in the minority
8 community that it will be used as a tool against them.

9 So, I would, in wrapping up, just based on
10 my personal experience with these laws over the last
11 four years, is to encourage Texas to use creativity to
12 think through provisions of the law that can address
13 some of these shortcomings, these concerns and try to
14 come to a law that has wider support than what we've
15 seen passed on the partisan basis in Indiana, Georgia
16 and other states.

17 UNIDENTIFIED SPEAKER: So, I take it from
18 your testimony that you -- in terms of the way
19 provisional ballots are handled, you do find the Florida
20 model to be preferable to Indiana and Georgia as -- or
21 at least certainly as far as Indiana is concerned and as
22 stated in the dissenting opinion of the Supreme Court
23 decision?

24 MR. MOORE: Well, I'll say that I think the
25 way Florida handled it represented a way to try to get a



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1 bill -- a broader support and a fail-safe. I mean, I'm
2 in favor of the affidavits. I think that's -- because I
3 think in one way it produces a paper trail that you can
4 then go back and investigate impersonation.

5 I mean, if you require a photo ID but have
6 an affidavit fail-safe, then you have an affidavit from
7 everyone who didn't have an ID and that way if you
8 enforce it fairly, you can go back and use those to
9 determine if you have an broader impersonation problem
10 but I think provisionals is another way to do it.

11 UNIDENTIFIED SPEAKER: And just to be clear,
12 the only difference between the way that Florida handles
13 it and letting anybody just sign an affidavit and
14 vote -- and, you know, the way I look at that it's
15 really just a -- it's almost a nudge in the direction of
16 obtaining and using and getting used to using the proper
17 prescribed identification because the only difference is
18 that in one mechanism these votes that a panel of -- of
19 the public look at and conclude that one signature is
20 not likely to be the same signature as the other
21 person's signature, that in one instance those votes
22 where a majority of this panel conclude is not likely to
23 be the signature of the same person, in one system, they
24 count and in the other system, they do not count, and
25 that really is the only difference between your top



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1 choice of how that is handled and how it is handled in
2 Florida, would you not agree? That's the difference?

3 MR. MOORE: Yeah, and I think it's a
4 significant difference. I think what I've seen it in
5 and I think what Carter-Baker kind of suggests as well
6 is that maybe there's a weigh station, maybe you can
7 have an interim law with affidavits for provisional
8 ballots that would allow you to better track those
9 voters who don't have ID and then based on your
10 experience with that law, you could tighten it up or
11 loosen it as needed but given how little we know about
12 the pool of people who don't have the required ID, it's
13 a little bit -- I think a little frightening to --

14 UNIDENTIFIED SPEAKER: Well, I mean, I don't
15 think there's anybody here that doubts that -- you know,
16 that those are accurate descriptions of the people who
17 do not have photo identifications and -- and that's why,
18 you know, I am not a proponent of the Indiana law.
19 But --

20 And let me ask this question: When you
21 talked about the number -- your estimate of the number
22 of registered voters in Texas that do not have ID, what
23 percentage of the total registered voters --

24 MR. MOORE: I took the 2008 registered
25 voters and applied the 1.2 percent that was found across



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1 the three states and that's very rough but if you want
2 an idea of some kind of, I think, firmer number --

3 UNIDENTIFIED SPEAKER: So, you believe
4 that -- tell me if I'm understanding what you're just
5 saying correctly -- you believe that 98.8 percent of the
6 voters already have the photo identification that is --
7 that would be required in this legislation?

8 MR. MOORE: I think the number would be a
9 little lower in Texas than some of these other states
10 but it's in that neighborhood of 96, 97, 98 percent of
11 registered voters have ID. I think it's very high. And
12 I think four years ago, we thought it was much lower.

13 UNIDENTIFIED SPEAKER: And I think some
14 people take that statistic of 2 or 3 or whatever it is
15 or 4 percent and get very flippant about it and go,
16 okay, it doesn't matter, it's insignificant. And I just
17 want you to know that's not my attitude but I think it
18 is important to have some information about the extent
19 of the voters that are currently qualified even if we
20 were to adopt the Indiana law and require them to have a
21 photo ID, which I don't believe there's any chance will
22 occur.

23 Yes, Representative Bonnen.

24 REPRESENTATIVE BONNEN: Now, are you for or
25 neutral?



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1 MR. MOORE: Neutral on the law.

2 REPRESENTATIVE BONNEN: So, you're neutral
3 on this. Okay.

4 You -- you've made the comment -- and I'm
5 just curious what number you would think it would need
6 to be -- that Georgia had a -- I forget the exact word.
7 It's unimportant. But, you know, you said a good
8 number. I mean, you didn't say that number but, you
9 know, a pretty decent number, which I believe was a
10 million dollars for voter education or whatever. The
11 gentleman testified earlier and said that I was not
12 enough, you would guess, for the Justice Department.
13 And so, the population in Georgia is 9.5 million and
14 they did a million dollars. Currently we're looking at
15 2 million in Texas. Our population is about 23 million.
16 We pulled it up. It was 23.5.

17 UNIDENTIFIED SPEAKER: 23.9.

18 REPRESENTATIVE BONNEN: 23.5. Anyway, 24
19 million. So -- so, what do you think that number should
20 be?

21 MR. MOORE: Well, my comment was really not
22 so much about the number as it was the specificity that
23 you can give to the Justice Department to say this is
24 the type of education we're going to be doing and this
25 is the money that we've set aside to do it, in other



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1 words, instead of a figure that's out there that says
2 we're just going to -- generally, we're going to give
3 this towards voter education or give this toward giving
4 IDs to people, the more specificity that you can give
5 and the more it shows a thought out program, the better
6 your chances of getting pre clearance are going to be.

7 REPRESENTATIVE BONNEN: Another thing you
8 had commented on that maybe I don't understand but I
9 believe in the bill -- I mean, unless I'm wrong -- we
10 would give anyone who doesn't have an ID a free ID.

11 MR. MOORE: That's not the way that I
12 see the -- the way that I read the provision. The way
13 that I read the provision is if you only are going to
14 use your ID for voting -- now, I'm not saying that's not
15 enough -- that's up to you but the other state --

16 UNIDENTIFIED SPEAKER: It's really not up to
17 us, actually.

18 MR. MOORE: But the other states have said
19 photo IDs are free. If you come in and get a photo ID,
20 we would have charged you for that before the bill but
21 now it's free.

22 And I think that particularly in Georgia
23 where Judge Murphy had serious problems with the poll
24 tax argument before, that has raised his concern
25 because, just to finish, he felt like that was a fee you



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1 had to pay in order to vote, in other words, you had
2 to -- you had to pay that -- you had to pay a fee in
3 order to get the state document in order to vote, and he
4 felt that was close to a poll tax. If the cards were
5 free, then it took away that argument.

6 REPRESENTATIVE BONNEN: Right, and I
7 understand.

8 MR. MOORE: Yeah.

9 REPRESENTATIVE BONNEN: Ours says it's free
10 for the use of voting.

11 MR. MOORE: The way I read the bill, someone
12 who went in to get a card and wanted to have another use
13 for it would probably feel compelled to pay the fee in
14 order to avoid saying that he was only going to use it
15 for voting.

16 REPRESENTATIVE BONNEN: I think that's a
17 simple clarification. So, assuming that clarification
18 is made, would that --

19 MR. MOORE: If the clarification is that all
20 photo IDs are free, not necessarily licenses but you can
21 get a photo ID card for free, as Georgia and Indiana
22 did, yes, I think that would take care of that
23 particular --

24 REPRESENTATIVE BONNEN: But only that one,
25 right?



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1 I was curious -- and maybe I missed it --
2 you made the comment about allegations of
3 politicalization, you know. Where do those come -- I
4 mean, what are you referring to?

5 MR. MOORE: I think the best documentation
6 of that is in the DOJ's own report on possession of
7 hiring the Justice Department, and I think there's a
8 long record now of congressional testimony about
9 possession. It's still debatable but my only point was
10 that I think in many ways the original 2005 Georgia pre
11 clearance, which is the key one, has been discredited
12 by a lot of people in the voting rights field, and I'm
13 not sure the Obama Justice Department necessarily see
14 that as the precedent it would under other
15 circumstances.

16 REPRESENTATIVE BONNEN: I understand that.
17 I guess my concern was, first, the Justice Department is
18 supposed to not be political but, secondly, you know, I
19 know it's Dr. Allen's birthday but even if her birthday
20 wish were to wake up in a nonpolitical world tomorrow,
21 I'm not sure -- as much as you and I and the rest of us
22 would like to deliver that birthday wish to her, I'm not
23 sure how we do it.

24 So, if we're going to -- and I don't know
25 how you stop the politicalization, which I'd love to



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1 see. I mean, we saw a lot of politicalization here
2 tonight. I mean, I --

3 MR. MOORE: Well --

4 REPRESENTATIVE BONNEN: I don't think you'll
5 ever pre clear anything. I don't think you'll ever pre
6 clear a redistricting map. I don't think you'll ever
7 pre clear any voting law issue if it has to be free of
8 politicalization because, unfortunately -- and I am very
9 disturbed by politicalization, quite frankly, it won't
10 end.

11 MR. MOORE: Well, in all due respect, the
12 problems in the say 2005, 2007 Bush administration were
13 unprecedented and they were politicalization problems
14 and allegations that did not arise, for instance, under
15 the Reagan years and under a very conservative
16 administration of the civil rights division.

17 So, I think it was a unique and very
18 unfortunate and I think that it's becoming very well
19 documented but my only -- I think the only relevance to
20 this is that the civil rights division itself will see
21 the 2005 pre clearance as perhaps less of a precedent
22 than it would under other circumstances but I don't --
23 and I expect you will get a very professional and
24 nonpartisan hearing when you send your law to the civil
25 rights division.



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1 Yes, I don't think it was mortally wounded
2 and politically precise. In fact, in the last few
3 years, the Bush administration itself acknowledged many
4 of the problems and started to move --

5 REPRESENTATIVE BONNEN: Okay. Thank you.

6 CHAIRMAN SMITH: Tell me this, just as a --
7 on the legal issues, to what extent does the Supreme
8 Court opinion influence that review or provide any safe
9 harbors with regard to that process?

10 MR. MOORE: On the legal basis, it's a
11 different analysis. We're talking being retrogression
12 to the constitutional analysis. I'm not going to say
13 that the Crawford opinion will not change the context in
14 which it's -- it's seen. I mean, these are lawyers who
15 read those cases, and they are going to be influenced by
16 that decision but on a legal basis, on an analytical
17 basis, it's distinct, and this is a before and after
18 analysis of your law as it stands now and this is what's
19 going to be passed.

20 So, it's a distinct analysis but it happens
21 in a climate and certainly the Crawford case makes it --
22 makes ID laws kind of more legitimate in a general way
23 that can't help but impact and influence the pre
24 clearance process.

25 CHAIRMAN SMITH: So, you're saying that even



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1 if our law is clearly less onerous or progressive,
2 depending on your perspective, than the Indiana law, you
3 still believe there is a possibility that it could be --

4 MR. MOORE: I certainly think the Justice
5 Department -- for instance, under Section 5, as you
6 know, the burden is on Texas. So, the Justice
7 Department, if it wanted to, could simply say Texas has
8 not met its burden and lodge an objection on that basis,
9 or the DC court could regardless of the laws or even
10 whether it believes -- and it's up to you to prove that
11 it's not retrogressive, not up to the Justice Department
12 or the DC court to produce it is.

13 CHAIRMAN SMITH: Okay. Yes, Representative
14 Anchia.

15 REPRESENTATIVE ANCHIA: Yes. Let's talk a
16 little bit about Carter-Baker, and if you could
17 reiterate for the committee your involvement in
18 Carter-Baker.

19 MR. MOORE: I joined Carter-Baker in 2006
20 upon leaving the Justice Department in order to handle
21 the follow-up work, the implementation of their
22 recommendations. So, I worked there for a little over a
23 year, pushing nonpartisan election administration,
24 trying to, you know -- developing and lending funding
25 for projects such as this and also working with



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1 legislatures and congress members.

2 In the summer of 2006 there were
3 congressional debates on federal ID law, and we worked
4 with congress to try to inform them what the -- what the
5 Carter-Baker proposal was.

6 And I think it's important just to -- I
7 mean, I think it's serving its purpose if it's being
8 discussed in this hearing. So, it's good to see that
9 because that's really what its role was, to promote the
10 debate and the dialogue.

11 But there's some real differences between
12 what they proposed in their recommendation and what has
13 been implemented.

14 REPRESENTATIVE ANCHIA: And during the --
15 now, the three sessions that we -- we're discussing
16 voter ID, Carter-Baker has been used as support for
17 voter ID on a piecemeal basis wherein people said, hey,
18 Carter-Baker recommended voter ID, let's do voter ID,
19 without acknowledging the remainder of the
20 recommendations. And there were 87 recommendations,
21 were there not?

22 MR. MOORE: Right.

23 REPRESENTATIVE ANCHIA: And -- and after
24 what I think both President Carter and Secretary Baker
25 perceived as kind of a bastardization of Carter-Baker by



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1 proponents of voter ID, they wrote a -- they co-wrote an
2 op-ed in the NEW YORK TIMES stating that their intent
3 had been misconstrued; is that not right?

4 MR. MOORE: That's right.

5 REPRESENTATIVE ANCHIA: And have you read
6 that?

7 MR. MOORE: Oh, yes.

8 REPRESENTATIVE ANCHIA: September 23rd,
9 2005. In fact, I used it on the House floor, and I was
10 accused of misusing their words, and I tried to explain
11 to the person making the accusation that while, in fact,
12 these are their words -- and they said, and I'll quote,
13 and if you can offer some context after presenting this
14 quote, quote, "Until we have universal registration, we
15 cannot make having such an ID be a condition of voting,"
16 end quote. Do you recall that part of the op-ed? Can
17 you put it in a broader context of Carter and Baker and
18 voter ID?

19 MR. MOORE: Well, I think Carter and Baker
20 were very disappointed with the Georgia law in 2005,
21 which they thought was a not a very well thought out
22 bill. I think they were more pleased with the 2006 law,
23 but I still don't think it came up to their
24 expectations.

25 The Carter-Baker proposal was really a



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1 compromise on the two extremes, and it really wanted us
2 to move toward universal registration of all voters but
3 more importantly for the state to take a very
4 affirmative role in getting people registered to vote.

5 Now, they didn't really come out all the way
6 to universal registration but they really wanted the
7 state to take an affirmative role, to go out and get
8 people registered to vote and don't put it on their
9 shoulders and, on the other hand, you're going to
10 improve security by having a photo ID requirement that
11 was tied to the real ID, the -- and kind of a quasi
12 national ID that everybody would have.

13 And -- but part of that, too, was that they
14 saw it happening at a national level. They wanted to
15 replace what we still had, which was a patchwork of
16 state laws, which -- very dramatically by having a
17 national standard, and that has not come about at all.
18 So, they were really looking at it at the federal level
19 rather than piecemeal state laws.

20 REPRESENTATIVE ANCHIA: And can you talk a
21 little bit about and give us some context for universal
22 registration? Again, this is the follow up to
23 Carter-Baker when they were expressing frustration about
24 the implementation of only one leg of the stool, saying,
25 hey, we're doing more security but we're not doing more



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1 access, and then they talk a year later -- I guess is
2 this a year, maybe nine months later about universal
3 registration. What do they mean there?

4 MR. MOORE: Well, they thought that the real
5 ID -- the post 911 emphasis on ID would be a mechanism
6 to register people. So, for instance, the proposals
7 that have come up now post 2008 about moving towards
8 universal registration through populating state voter
9 registration lists through the DMV, through the
10 licensing list would be one way of moving toward
11 universal registration.

12 So, where by default people are registered
13 and then they're dropped off the list for these reasons
14 but their idea was -- and it's a little esoteric, I
15 think, was to use real ID and this standard ID as a way
16 to register everybody. You go in to get your real ID
17 and you're registered and it shows up on your license,
18 and so, everybody -- you know, you -- and then the state
19 really takes on the obligation to go out and find
20 everybody and bring them in and register them and get
21 them the ID because they thought the real ID would be
22 something that everybody would have.

23 REPRESENTATIVE ANCHIA: And -- and in the
24 absence of the implementation of universal registration,
25 can you talk a little bit about what your home state has



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1 done with same day registration during early vote? And
2 let's put it in a Texas context and maybe you can draw
3 an analogy. North Carolina, you can go and do -- you
4 can register early only during early vote. Those votes,
5 I think, are provisional and --

6 MR. MOORE: No, they're regular.

7 REPRESENTATIVE ANCHIA: They're regular
8 votes, they're not provisional? Are they -- are they
9 subject to review by ballot board?

10 MR. MOORE: No. They're regular ballots.
11 It's like same day registration or election day
12 registration. They walk in and register and vote the
13 same day.

14 REPRESENTATIVE ANCHIA: But only during
15 early vote?

16 MR. MOORE: That's right.

17 REPRESENTATIVE ANCHIA: And do they have to
18 submit some form of ID in North Carolina?

19 MR. MOORE: I'm not sure. I actually live
20 in Virginia. So, I'm not a North Carolina voter.

21 REPRESENTATIVE ANCHIA: Okay. Okay. You
22 just went to college there?

23 MR. MOORE: Well, I'm a native North
24 Carolinian and went to college there.

25 REPRESENTATIVE ANCHIA: Okay. So, maybe



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1 North Carolina -- does North Carolina represent one
2 opportunity for a state to enhance access to
3 registration and maybe offset some of the
4 disenfranchising impact of a voter ID law?

5 MR. MOORE: Yes. And one of the other ways
6 that North Carolina would be a model is that North
7 Carolina, like Texas, has really good election offices,
8 and I work with election -- I work with the 55 election
9 offices across the country and in the territories. And
10 North Carolina and Texas, you know, we work with their
11 office, are two of the best in the country.

12 And so, your -- you know, you have an
13 election office that can handle these -- these things.
14 Not every state has the capacity to handle something
15 like same day registration.

16 REPRESENTATIVE ANCHIA: Who is Robert -- Dr.
17 Robert Pastor.

18 MR. MOORE: He was executive director of the
19 Carter-Baker Commission.

20 REPRESENTATIVE ANCHIA: And he strongly
21 cautioned congress in March of 2009, just recently, just
22 last month, that if voter IDs become the entire part of
23 the solution, then they actually become part of the
24 problem. Are you familiar with his congressional
25 testimony? And would you think that that congressional



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1 testimony is in line with the sentiments expressed by
2 President Carter and Secretary Baker in their op-ed?

3 MR. MOORE: Yes. And I think Dr. Pastor,
4 who does a lot of international election work as well,
5 has been frustrated by the polarization and the kind of
6 myopic debate on ID and the unwillingness of people in
7 both parties to see ID as a way to expand the franchise
8 and increase security and improve elections overall.

9 REPRESENTATIVE ANCHIA: Thank you.

10 REPRESENTATIVE BOHAC: Representative Bohac.
11 Is it your believe that most people who want to be
12 registered to vote are indeed registered to vote through
13 the access laws that we have now?

14 MR. MOORE: I'm quite sure of it, yeah.

15 REPRESENTATIVE BOHAC: So, if people want to
16 register to vote, they're probably more than likely
17 registered to vote?

18 MR. MOORE: Yes.

19 REPRESENTATIVE BOHAC: A moment ago, you
20 said that real ID would be something everyone has.
21 Assuming that Texas is a country and we mandate -- let's
22 just assume we were and we did say everybody should have
23 an ID, what -- what made Carter-Baker think that it
24 would be so?

25 MR. MOORE: Well, I think you have to go



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1 back to when Carter-Baker Commission was meeting and
2 coming up with these recommendations, and this was much
3 closer to 911 and the real ID had some momentum and the
4 resistance to it had not occurred yet. So, I think
5 there was a belief that this was going to be a quasi
6 national ID implemented through the states. I don't
7 think that is as realistic now or it seems that way now
8 as it was at the time. So, I think that in a way they
9 kind of overestimated what real ID was going to be.

10 REPRESENTATIVE BOHAC: But it just seems to
11 me that these same obstacles that this committee has
12 heard would be the same obstacles that would exist if
13 you called it a Texas ID or a real ID and if it were
14 free or it was not free. There would be obstacles to
15 access. I mean, I just see tension between the
16 Carter-Baker report, almost contradictions in some of
17 their concepts, in some of their reclarifications beyond
18 their initial report.

19 MR. MOORE: Well, that certainly has been
20 one of the criticisms of the Carter-Baker
21 recommendation, particularly from the left, has been
22 that, and there are many people who felt that their
23 recommendation was not all that well thought out, that
24 it was a little bit, you know, off the wall but I think
25 that the core -- and I think they've had trouble



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1 communicating their core principle, which was we will
2 trade security at the ballot in exchange for moving
3 toward a more universal registration.

4 REPRESENTATIVE BONNEN: Right. But you just
5 testified a moment ago that most of the people who
6 desire to be registered to vote are indeed registered to
7 vote, so, we really kind of have a hundred percent
8 registration in the strict sense that people who want to
9 be registered to vote are registered to vote.

10 MR. MOORE: You asked me about are the bulk
11 of those people most of those people, and I said yes but
12 there are a lot of people who run into registration
13 problems, people who shift, for instance, their
14 registration from one jurisdiction to another and their
15 registration gets fouled up and then they can't vote a
16 regular ballot like they want.

17 And I think what they were looking at and I
18 think what the United States is moving toward is
19 something more like universal registration where you
20 have a transportable registration and where you're seen
21 to have -- you know, it's very hard to avoid being
22 registered, as opposed to now where the burden is on the
23 voter to keep their registration updated as they move,
24 if they have name changes, all of that.

25 So, I think that most people who -- yes,



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1 most people who want to be registered are registered but
2 I don't think that means that there's nothing to be
3 gained from expanding that and improving the
4 registration regime as well.

5 REPRESENTATIVE BONNEN: Okay. Thank you.

6 CHAIRMAN SMITH: Did you see a material
7 difference between the letter that they wrote after the
8 report and the report itself?

9 MR. MOORE: The letter to the TIMES that was
10 published?

11 CHAIRMAN SMITH: Yes.

12 MR. MOORE: No.

13 CHAIRMAN SMITH: I read it and I didn't
14 really see any difference in that letter that -- versus
15 what I read in the report. Do you think there's a
16 material difference?

17 MR. MOORE: No. I think they have had
18 trouble communicating what was a compromise measure but
19 that's understandable because they were trying to do
20 something new, I think.

21 CHAIRMAN SMITH: So, you made it clear
22 earlier -- I believe you said that they did not come out
23 for universal registration, they encouraged people to
24 move toward more universal registration, would that be a
25 fair description of what they recommended?



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1 MR. MOORE: Yeah.

2 CHAIRMAN SMITH: And if -- if I'm reading it
3 correctly, I'm looking here at their letter and report,
4 I have read that additional editorial that they wrote
5 and, again, it seems to reflect what is in the report
6 itself but what it says here is: We're recommending a
7 photo ID system for voters designed to increase
8 registration with a more affirmative and aggressive roll
9 for states in finding new voters and providing free IDs
10 for those without driver's licenses. That's from
11 their -- the letter from the co-chairs summarizing
12 what's in the report, and they talk about mobile --
13 mobile voter units in the report itself and other -- I
14 suppose they're not intending to limit the mechanism or
15 the manner in which an individual state would engage in
16 aggressive efforts to register more voters. Do you
17 think that's a fair --

18 MR. MOORE: Yes. I think you have to go
19 back to Jimmy Carter's experience overseas in countries
20 that do have universal registration or something more
21 close to it, and what I think their real idea was to
22 change our mindset away from putting the burden on the
23 voter to maintain their voter registration records to
24 putting it on the state to do that.

25 CHAIRMAN SMITH: And, obviously, if we had



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1 found a means to adopt the real ID card and if that was
2 politically feasible, then that would be one mechanism
3 they specifically mention in the report as a way to do
4 that; is that correct?

5 MR. MOORE: Right. And that's what many
6 countries overseas do which have a national ID and
7 require photo IDs at the polls because it --

8 CHAIRMAN SMITH: But we're all kind of
9 agreeing that that turned out not to be a feasible way
10 to get that done; is that correct?

11 MR. MOORE: I don't think there's political
12 support for it.

13 CHAIRMAN SMITH: Yeah, at this point.
14 But -- so, the principle -- you know, without getting
15 into the details, the principle they are recommending is
16 that to the extent that you enhance security, that you
17 simultaneously take some affirmative step on the part of
18 the state to expand access and to expand the number of
19 potential registered voters; is that correct?

20 MR. MOORE: And expand the number of people
21 that have ID, which was part of that, too.

22 CHAIRMAN SMITH: Okay. All right.

23 Yes, Mr. Bonnen.

24 REPRESENTATIVE BONNEN: You're neutral on
25 the bill; is that right?



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1 MR. MOORE: Yes.

2 REPRESENTATIVE BONNEN: Let me ask you about
3 politicalization again. Are you familiar with the
4 WASHINGTON POST article last Wednesday, April the 1st,
5 about the Justice Department's conclusion on the DC
6 voting rights bill?

7 MR. MOORE: Yes, I saw that and I'm familiar
8 with the article. I'm familiar with the issue, yes.

9 REPRESENTATIVE BONNEN: Well, what's the
10 issue then?

11 MR. MOORE: The issue, I believe, in that
12 article was that there had been a memo that advised that
13 the bill might be unconstitutional and Holder --
14 Attorney General Holder had overwritten that memo.

15 REPRESENTATIVE BONNEN: He actually ordered
16 a second opinion from other lawyers in his department
17 and determined that the legislation would pass muster, a
18 finding that the Voting Rights bills runs afoul of the
19 constitution could complicate an upcoming House vote and
20 more vulnerable to legal challenges of the Supreme Court
21 but, when asked, a seasoned Justice Department
22 individual says they saw concern and then Holder said he
23 wanted the office of legal counsel -- I'm sorry, not the
24 legal counsel. Who did he ask for then? Solicitor
25 general then. So, do you think we're moving away from



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1 politicalization?

2 MR. MOORE: Well, I think you're right and
3 there's always going to be question and there's always
4 going to be a shadowing over and there always has been
5 and it goes back to Robert Kennedy and everything else
6 but I do want to go back and say that the -- the degree
7 to which the civil rights division was criticized from
8 about 2002, 2003 to 2007 was unique in the history of
9 the division and it was very unfortunate but you're
10 right and it's going to be something that's going to
11 take increased transparency and it's going to take
12 increased scrutiny to make sure that that is not
13 repeated on either side.

14 UNIDENTIFIED SPEAKER: But I guess the
15 concern is that it sounds as if we are headed in that
16 direction.

17 MR. MOORE: I think it's a little early and
18 that one memo, I don't think, is really conclusive as to
19 what -- I'm not willing to say that the mistakes of the
20 last few years are going to be repeated in the Obama
21 administration, not yet anyway.

22 UNIDENTIFIED SPEAKER: Even though the
23 Attorney General is not agreeing with long-term Justice
24 lawyers who say there is a problem and then he asks for
25 something that's -- apparently I'm not that schooled in



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1 this -- highly unusual and says he wants the solicitor
2 general's office, I think I got that right?

3 MR. MOORE: I think if that becomes a
4 pattern, then that would be a concern to have but
5 speaking totally from a --

6 UNIDENTIFIED SPEAKER: No, I understand.
7 And I guess my concern is when you say becoming a
8 pattern, is it important whether it's a pattern or not
9 or if it's on the rare occasions it happens what the
10 issues are, like DC voting rights, that's a pretty
11 significant issue, so, there only may be say two
12 significant issues in the next three years but on those
13 two, you see these type of situations occur, then that's
14 an issue. That may not be what I would call a pattern.

15 MR. MOORE: Well, I think the Department of
16 Justice is going to have more than two significant
17 issues over the next three years that could hopefully --

18 UNIDENTIFIED SPEAKER: Hopefully, but you
19 follow what I'm saying, even if it's not --

20 MR. MOORE: You know, if that turns out,
21 like I said, to be something that happens again -- in a
22 case like this in which it's, obviously, in the
23 Democrat -- Democratic's party interest to have a vote
24 for DC, then I would be worried that that was --

25 UNIDENTIFIED SPEAKER: Can you point to any



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1 other decisions that Justice Department has made that
2 would show us they're not going to be -- there won't be
3 politicalization that they've made since they've been in
4 administration?

5 MR. MOORE: I'm sorry, it's just too early
6 and we just don't have enough of a --

7 UNIDENTIFIED SPEAKER: That's what, I guess,
8 I'm trying to drive at. I mean, I don't know enough
9 about what decisions they've had available or issues
10 have come up but, I mean, is this the only one or are
11 there others that they maybe went the correct direction
12 on or didn't show a degree of politicalization? Is this
13 it for their short tenure?

14 MR. MOORE: I just don't know.

15 UNIDENTIFIED SPEAKER: Thank you.

16 CHAIRMAN SMITH: There's been some reference
17 to this editorial, and I want to just take a second to
18 read a little part of it here.

19 February 3rd, 2008 by Jimmy Carter and James
20 Baker. It says: This is a major election year.
21 Unfortunately, our two major political parties,
22 Democratic and Republican, continue to disagree on some
23 of the rules that apply to the administration of our
24 elections. This divide is perhaps most contentious when
25 the issue becomes one of whether voters should present



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1 photo identification to vote. 27 states require at
2 least some form of ID to vote. Supporters of this
3 policy argue that if voters identify themselves before
4 voting election fraud will be reduced.

5 Opponents of an ID requirement fear it will
6 disenfranchise voters, especially the poor, members of
7 minority groups and the elderly who are less likely than
8 other voters to have suitable identification. The
9 debate is polarized between proponents because most of
10 the proponents are Republicans and most of the opponents
11 are Democrats.

12 In 2005, we led a bipartisan commission on
13 federal election reform and concluded that both parties'
14 concerns were legitimate. A free and fair election
15 requires both ballot security and full access to voting.
16 We offered a proposal to bridge the partisan divide by
17 suggesting a uniform voter photo ID based on the Federal
18 Real ID Act of 2005 to be phased in over five years.

19 To help with the transition, states would
20 provide free voter photo ID cards to eligible citizens.
21 Mobile units would be sent out to provide the IDs to
22 registered voters. Of the 21 members of the commission,
23 only 3 dissented on the requirement for an ID.

24 No state has yet accepted our proposal.
25 What's more, when it comes to ID laws, confusion reigns.



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1 The laws on the books, mainly backed by Republicans,
2 have not made it easy enough for voters to acquire an
3 ID.

4 At the same time, Democrats have tended to
5 try to block voter ID legislation outright instead of
6 seeking to revise that legislation to promote
7 accessibility.

8 When lower courts have considered challenges
9 to state laws on the question of access, their decisions
10 have not been consistent and in too many instances
11 individual judges have appeared to vote along partisan
12 lines.

13 Fortunately, the Supreme Court has taken on
14 a case involving a challenge to Indiana's voter ID law.
15 The Court, which heard arguments last months and is
16 expected to render a judgment this term, has the power
17 finally to bring clarity to this crucial issue.

18 The report goes on to indicate that the
19 American University Center for Democracy indicates that
20 only about 1.2 percent of registered voters lack a photo
21 ID.

22 I guess that's the statistic that you were
23 early citing.

24 UNIDENTIFIED SPEAKER: Mr. Chair, just real
25 quickly, what was the date on that letter?



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1 CHAIRMAN SMITH: February 3rd, 2008.

2 UNIDENTIFIED SPEAKER: Okay. I referred
3 earlier to a op-ed by Carter and Baker from September,
4 2005. So, you're reading from a different document than
5 what I eluded to, just for the record.

6 CHAIRMAN SMITH: What is the date of yours?

7 UNIDENTIFIED SPEAKER: September 23rd, 2005.
8 It was discussed on the House floor during the 2007
9 session.

10 CHAIRMAN SMITH: Okay.

11 UNIDENTIFIED SPEAKER: All right.

12 CHAIRMAN SMITH: And I'm just saying it is
13 the very spirit of this document that I'm hoping we can
14 try to be the -- the only state that has managed to find
15 the middle ground on this issue and to expand access at
16 the same time that we enhance security. That's
17 certainly what we're going to try to do.

18 Any other questions, members, of this
19 witness? Any other questions? Any other comments?

20 MR. MOORE: No. It's been a long day but --

21 CHAIRMAN SMITH: We certainly appreciate you
22 taking the time to stick with us and apologize for the
23 length of time --

24 MR. MOORE: Thank you for your time.

25 CHAIRMAN SMITH: -- that you had to wait.



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1 UNIDENTIFIED SPEAKER: Okay. Is there
2 anyone else here which --

3 CHAIRMAN SMITH: Oh, we wanted to bring the
4 Attorney General back.

5 UNIDENTIFIED SPEAKER: You're joking, right?

6 UNIDENTIFIED SPEAKER: For?

7 (Inaudible)

8 CHAIRMAN SMITH: With the Attorney General's
9 office?

10 Anybody have any questions for Mr. Nichols
11 with the Attorney General's office?

12 UNIDENTIFIED SPEAKER: I have a handful.

13 CHAIRMAN SMITH: Okay. Come on up.

14 UNIDENTIFIED SPEAKER: I want it for the
15 record.

16 CHAIRMAN SMITH: Okay. State your name, who
17 you represent. Have you filled out a form?

18 UNIDENTIFIED SPEAKER: He gave it to you.

19 MR. NICHOLS: I did fill out a form, Mr.
20 Chairman.

21 Good morning. Eric Nichols, Deputy Attorney
22 General for Criminal Justice.

23 Happy birthday.

24 REPRESENTATIVE DR. ALLEN: Thanks.

25 UNIDENTIFIED SPEAKER: Let's get this right.



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1 MR. NICHOLS: That should have come first.
2 I apologize, Dr. Allen.

3 REPRESENTATIVE DR. ALLEN: That's all right.
4 Thank you.

5 UNIDENTIFIED SPEAKER: Can I go, Mr.
6 Chairman?

7 CHAIRMAN SMITH: Yes.

8 UNIDENTIFIED SPEAKER: Eric, how are you?
9 Good morning to you.

10 Earlier today there was some discussion
11 about Waller County and the Texas Attorney General's
12 involvement in the alleged misconduct out there. One of
13 the complaints was that you all didn't devote adequate
14 resources to that particular problem. Does the Texas
15 Attorney General have authority to pursue civil actions
16 under Voting Rights Act?

17 MR. NICHOLS: No, sir. That's the exclusive
18 province of the Department of Justice, the civil rights
19 division.

20 UNIDENTIFIED SPEAKER: So, what do you have
21 authority to pursue? Criminal violations under the
22 Texas Election Code?

23 MR. NICHOLS: Yes, sir. As I testified
24 before this body and before the Senate, we do have
25 original but not exclusive jurisdiction to prosecute



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1 criminal violations of the Election Code.

2 And so, our -- our statutory authority in
3 the area is limited to acting upon referrals of
4 allegations of violations of the criminal provisions of
5 the Election Code.

6 We take those referrals. We thoroughly
7 investigate those referrals. If there are facts and the
8 law warrants presentation of those cases to a Grand
9 Jury, they will be so presented.

10 A Grand Jury makes a decision about whether
11 those cases will be indicted and if they are -- if the
12 Grand Jury makes a decision to proceed with an
13 indictment, then our office will be involved in
14 prosecuting the case from there forward.

15 UNIDENTIFIED SPEAKER: The Department of
16 Justice filed a lawsuit against Waller County, correct?

17 MR. NICHOLS: Yes, sir.

18 UNIDENTIFIED SPEAKER: And they required the
19 county to enter a consent decree. Did the federal
20 lawsuit alleged any criminal conduct?

21 MR. NICHOLS: No, sir, it did not, and --
22 and I believe that what was confirmed, I think, by
23 President Bledsoe in what he testified to before the
24 Senate and testified to here today is that the Attorney
25 General's office was not only involved but was



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1 instrumental in getting the Department of Justice to
2 take the actions that it did and, in fact, the results
3 of the investigation that our office conducted, which
4 included impounding election records from Waller County
5 and interviews of the persons involved, that information
6 was provided to the Department of Justice, which then
7 informed us at the time that the consent decree was
8 entered that that investigation was critical to the work
9 that they were able to do to seek the civil remedies
10 that they were able to seek under the Voting Rights Act.

11 UNIDENTIFIED SPEAKER: Do you think there's
12 more that you could have done?

13 MR. NICHOLS: No, sir. At some point, I
14 believe there was some testimony -- I believe it also
15 came from President Bledsoe, which was accurate, that in
16 order to prove a criminal violation, there is a need to
17 be able to produce evidence and show that someone acted
18 with intent, and I believe that President Bledsoe
19 referred to the official suppression statute, which
20 requires as an element that you show that a public
21 official intentionally denied someone a right that they
22 were entitled to.

23 And so, I -- my personal belief, based on my
24 direct experience in dealing with the Department of
25 Justice on this very case, is that the Attorney



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1 General's office fully discharged its duties given our
2 purview of what we can and can't do.

3 UNIDENTIFIED SPEAKER: I appreciate your
4 testimony. I just wanted the committee to kind of hear
5 that because we kind of got off on a trail today, and I
6 just wanted to shed a little bit more light on kind of
7 the overall of this particular situation. I want to
8 thank you again for hanging in there until the very end.
9 That's all the questions I have.

10 Thank you, Mr. Chairman.

11 UNIDENTIFIED SPEAKER: On that subject, I
12 don't know if you're the person to ask this but is there
13 something in place to protect African American
14 communities from some sort of systematic effort to
15 ensure that the lines are longer to vote in their
16 communities than they are in other communities?

17 MR. NICHOLS: In terms of the actual
18 administration of how the voting process works, and an
19 issue in Waller County, for example, was, you know,
20 where are you going to place the ballot boxes, is it
21 appropriate in those elections to have ballot boxes on
22 the campus of Prairie View A&M.

23 And on those questions of the -- the
24 judgment of how the election should be held, of course,
25 we vest a lot of authority in Texas at the county level,



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1 so, we give the elections administrators in the counties
2 a lot of discretion.

3 Of course, they can seek guidance from and
4 support from the Secretary of State's office, and then,
5 of course, you have another level of supervision. If
6 you conduct an election in such a way to disenfranchise
7 voters, then you may get into a Voting Rights Act issue
8 as well but on those administrative parts, we really
9 rely on our elections administrators at the county
10 level, subject to supervision of the Secretary of State
11 and then, at a much higher level, the Voting Rights Act
12 but those obvious -- for obvious reasons don't tend to
13 be the kinds of criminal violations that we handle in my
14 shop.

15 CHAIRMAN SMITH: So, if you've got bigoted
16 leadership at the county level, they will seek advice of
17 the Secretary of State to see how far they can push it
18 before they cross a legal line?

19 MR. NICHOLS: I mean, it's entirely
20 possible -- now, there are criminal statutes that deal
21 with such issues as retaliation against voters. I mean,
22 if someone retaliates against a voter for having voted a
23 certain way, there is a criminal statute to deal with
24 that but if it doesn't rise to that level of such
25 knowing or intentional conduct, then you're really



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1 dealing with administrative issues that if the committee
2 is interested in that kind of thing, you ought to be
3 addressing with some of those administrative processes.

4 CHAIRMAN SMITH: Any other questions?

5 REPRESENTATIVE DR. ALLEN: I've got a
6 question.

7 CHAIRMAN SMITH: Dr. Allen.

8 REPRESENTATIVE DR. ALLEN: Are there any
9 ballot boxes on any campus in the State of Texas?

10 MR. NICHOLS: I don't know, Dr. Allen. We
11 might want to ask the Secretary of State's office to see
12 if that's ever done anywhere. And I can't recall off
13 the top of my head. I can get a copy of that consent
14 decree for you. I can't recall whether the consent
15 decree that the DOJ entered into in the Waller County
16 case spoke to the issue of where those ballot boxes were
17 placed but I can certainly check for you.

18 REPRESENTATIVE DR. ALLEN: Anywhere in
19 Texas, that's what I want to know.

20 MR. NICHOLS: Yes, I'll check on that for
21 you, Dr. Allen.

22 CHAIRMAN SMITH: Representative Anchia.

23 REPRESENTATIVE ANCHIA: Mr. Nichols, just to
24 get an update, any -- have you prosecuted any cases of
25 in person voter impersonation at the polls as the



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1 Attorney General's office?

2 MR. NICHOLS: We have among the -- I think
3 the number is up to 31 prosecutions now. Among those 31
4 prosecutions, there are, by my count, probably 4
5 prosecutions that deal with in person conduct, in other
6 words, some form of fraudulent conduct that --

7 REPRESENTATIVE ANCHIA: Does that include
8 investigations?

9 MR. NICHOLS: No. That would just be
10 prosecutions. And investigations, again, as you know, I
11 hope I've been very clear that I don't want to be
12 discussing --

13 REPRESENTATIVE ANCHIA: And I don't want you
14 to. I just want to know if prosecutions would include
15 as a subset investigations. I don't want you to discuss
16 any investigations. You consider those two things
17 separate?

18 MR. NICHOLS: I do and for obvious reasons,
19 and -- and if I might, I just -- I can't stress enough
20 to this committee and to everyone that's listening that
21 from my perspective, there are reasons why the integrity
22 of investigations need to be -- needs to be maintained,
23 the integrity of investigations, and it is not helpful
24 to the integrity of investigations to have anyone,
25 someone in my position or a legislator to be talking



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1 publicly about ongoing investigations of any matter,
2 including Election Code violations.

3 REPRESENTATIVE ANCHIA: And I'm not asking
4 you to discuss them publicly. You have investigations,
5 prosecutions. Any convictions?

6 MR. NICHOLS: Yes, sir.

7 REPRESENTATIVE ANCHIA: Okay. In the 30 or
8 so?

9 MR. NICHOLS: Yes, sir.

10 REPRESENTATIVE ANCHIA: Okay. And what fact
11 pattern? Was that for in person voter impersonation?

12 MR. NICHOLS: The cases have actually been
13 resolved involving in person polling place conduct
14 included a case that involved someone actually
15 physically voting for voters that were escorted to the
16 polling place.

17 There were cases of -- where resident
18 aliens -- I think you and I talked about this case
19 before -- resident aliens were registered to vote by a
20 counsel woman in Calhoun County.

21 REPRESENTATIVE ANCHIA: Yeah.

22 MR. NICHOLS: And which resulted in not only
23 their being improperly registered to vote but actually
24 going to the polling place and voting.

25 REPRESENTATIVE ANCHIA: And we talked about



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1 that. You testified about that in the interim, correct?

2 MR. NICHOLS: Yes, sir.

3 REPRESENTATIVE ANCHIA: Calhoun County?

4 MR. NICHOLS: Yes, sir.

5 REPRESENTATIVE ANCHIA: And the -- your
6 office determined that the people who voted did not have
7 the mens rea to commit voter fraud and that the actual
8 fraud was committed by the candidate by giving the
9 resident -- the legal permanent residents that
10 information about the fact that they could vote; is that
11 not correct?

12 MR. NICHOLS: Yes, sir, absolutely, that was
13 the allegation in that case.

14 REPRESENTATIVE ANCHIA: That was the fact
15 pattern there?

16 MR. NICHOLS: That in a very close election
17 that that politician had actively encouraged persons who
18 were not eligible to vote not only to register to vote
19 but actually to go vote.

20 REPRESENTATIVE ANCHIA: Right, and that the
21 persons who did vote did not have the requisite mental
22 state to commit fraud, correct?

23 MR. NICHOLS: Yes, sir. They were not
24 prosecuted because we believe that they had been lied
25 to.



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1 REPRESENTATIVE ANCHIA: Okay. Okay. With
2 respect to the other case of in person voter
3 impersonation, what was the fact pattern? You said that
4 there was official misconduct where somebody was in the
5 polling place.

6 MR. NICHOLS: And actually voted at the
7 actual voting station.

8 REPRESENTATIVE ANCHIA: For the registered
9 voter, correct?

10 MR. NICHOLS: Yes, sir.

11 REPRESENTATIVE ANCHIA: And in either of --
12 based on your knowledge of the Senate Bill, in either of
13 those cases would implementation of Senate Bill
14 prevented -- have prevented that in person voter
15 impersonation?

16 MR. NICHOLS: I consider that to be a very
17 kind of abstract question. I haven't studied it but --

18 REPRESENTATIVE ANCHIA: Let me ask you this
19 question --

20 MR. NICHOLS: Yes, sir.

21 REPRESENTATIVE ANCHIA: -- did the legal
22 permanent residence have IDs in the Calhoun County case?

23 MR. NICHOLS: I do not know.

24 REPRESENTATIVE ANCHIA: Okay. Did -- would
25 a voter ID standard have prevented the official



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1 misconduct -- would have prevented the official
2 misconduct at the polling location by the official who
3 is voting the other people's ballot?

4 MR. NICHOLS: Again, it's not something that
5 I've studied or would be able to offer kind of a
6 hypothetical answer to.

7 REPRESENTATIVE ANCHIA: Okay. Okay. Do you
8 know if IDs were presented in -- at the polling location
9 when the official misconduct occurred?

10 MR. NICHOLS: I do not.

11 REPRESENTATIVE ANCHIA: Okay. Thank you.

12 UNIDENTIFIED SPEAKER: Judge, I'm still not
13 clear on what the allegation is with regard to someone
14 voting for someone else. What specifically happened
15 there?

16 MR. NICHOLS: A person escorted an elderly
17 couple to the polls and then physically voted their
18 ballots at the polling place.

19 CHAIRMAN SMITH: Okay. So, in that
20 instance, you had someone -- so, you're saying the
21 elderly couple, from your understanding, went to the
22 table and handled the process of getting the ballot
23 themselves and then the other person took the ballots
24 and went in and voted it, is that how it happened?

25 MR. NICHOLS: Yes, sir. Yes, sir.



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1 CHAIRMAN SMITH: Okay. Any other questions,
2 members?

3 (Inaudible)

4 MR. NICHOLS: Yes, it is fraudulent to cast
5 a ballot for -- for someone else.

6 CHAIRMAN SMITH: I want to ask a quick
7 question of the Secretary of State. Is she still here?
8 Ann? Yes, you are.

9 Thank you.

10 MR. NICHOLS: Thank you.

11 UNIDENTIFIED SPEAKER: Thank you, Mr.
12 Nichols.

13 CHAIRMAN SMITH: State your name again and
14 who you represent.

15 MR. SEPEHRI: John Sepehri, general counsel
16 for the Secretary of State's office.

17 CHAIRMAN SMITH: Okay.

18 MS. MCGEEHAN: Ann McGeehan, Secretary of
19 State's office.

20 CHAIRMAN SMITH: Okay. Is there any way --
21 have you all had -- I think we've talked about it at
22 some point in time. Is there any way to make any kind
23 of an informed judgment of if I give you a million
24 dollars how many people I can register in the state that
25 are not currently registered?



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1 MR. SEPEHRI: Well, I think there are a lot
2 of factors outside of the appropriations process that
3 could affect sort of the bang for buck you would get
4 from that effort. I don't think we can -- we've talked
5 about it and I don't think we can really quantify that
6 for you.

7 CHAIRMAN SMITH: How would I go about
8 getting some quantification of that? Who could help me
9 with that? I guess it depends on how you spend the
10 money.

11 MS. MCGEEHAN: Right. That was going to be
12 my answer because I think it really depends on what
13 policy changes you want to make, you know. I mean,
14 there are various bills filed this session that might
15 expand the franchise but --

16 MR. SEPEHRI: But it may or may not be hard
17 for us to evaluate specific policies which expand the
18 franchise on a dollar bang for the buck basis.

19 CHAIRMAN SMITH: I mean, do we have any
20 other examples out there of people spending X number of
21 money to register X number of voters?

22 MS. MCGEEHAN: I can't think of it that way
23 as far as to kind of quantity, you know, the amount of
24 money it costs to get folks register. I mean, that --

25 CHAIRMAN SMITH: Just can't help me?



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1 MR. SEPEHRI: It's a hard question.

2 MS. MCGEEHAN: It's probably not a direct
3 relationship I think is the --

4 CHAIRMAN SMITH: Okay. I think that's all
5 the questions I have.

6 UNIDENTIFIED SPEAKER: Anyone else here
7 present to testify on or against SB 362?

8 The Chair calls on Representative Smith to
9 close.

10 CHAIRMAN SMITH: I close.

11 UNIDENTIFIED SPEAKER: The Chair moves that
12 SB 362 will be left pending before the committee. Are
13 there any objections? The Chair here's none. SB 362
14 will be left pending before the committee.

15 CHAIRMAN SMITH: Members, thank you very
16 much for your patience and for hanging with us. Unless
17 there are any comments or questions, the Chair moves
18 that the House Committee on Elections stand adjourn
19 subject to the call of the Chair.

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